

OVERSIGHT OF  
THE COUNCIL ON ENVIRONMENTAL QUALITY

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HEARING  
BEFORE THE  
COMMITTEE ON  
ENVIRONMENT AND PUBLIC WORKS  
UNITED STATES SENATE  
ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

MAY 15, 2019

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COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ONE HUNDRED SIXTEENTH CONGRESS  
FIRST SESSION

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## **OVERSIGHT OF THE COUNCIL ON ENVIRONMENTAL QUALITY**

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**WEDNESDAY, MAY 15, 2019**

U.S. SENATE,  
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10:03 a.m. in room 406, Dirksen Senate Office Building, Hon. John Barrasso (Chairman of the Committee) presiding.

Present: Senators Barrasso, Carper, Inhofe, Capito, Sullivan, Ernst, Whitehouse, and Markey.

### **OPENING STATEMENT OF HON. JOHN BARRASSO, U.S. SENATOR FROM THE STATE OF WYOMING**

Senator BARRASSO. Good morning.

Today we are going to conduct oversight on the Council on Environmental Quality.

I welcome our witness, Mary Neumayr, who is Chairman of the Council.

Welcome.

In January, the Senate confirmed Ms. Neumayr by voice vote. She is the first Senate confirmed Chairman since 2014.

I look forward to hearing about the Council on Environmental Quality's priorities under your leadership.

President Trump's administration has pursued pro-growth and pro-job policies that also protect our Nation's air, water, wildlife, and communities. I share President Trump's belief that we can both grow our economy and protect our environment at the same time.

The Obama administration largely believed that we had to pick one or the other. As a result, the American people unnecessarily suffered from a series of overreaching environmental policies and punishing regulations.

Now the Trump administration is shifting the Federal Government away from policies that increase uncertainty, that increase costs, and that increase delays with no corresponding environmental benefits.

For example, in March 2017, President Trump ordered the Council on Environmental Quality to rescind the Obama administration's greenhouse gas guidance. That guidance was unworkable. It also served to delay projects and increase uncertainty. Withdrawing the guidance was the right decision.

Over the last 2 years, the Council has improved environmental reviews that delay projects and increase costs. Last December, the

Council published a report based on 1,161 environmental impact statements issued between 2010 and 2017. The report found that it took an average of 4 and a half years to complete an environmental impact statement; 4 and a half years for Wyoming's farmers and ranchers to get answers on decisions that affect their lands and their waters; 4 and a half years before shovels can go in the ground on infrastructure projects that the Nation so desperately needs.

Four and a half years is indefensible.

To address delays, the Council on Environmental Quality has developed and implemented a policy known as One Federal Decision. One Federal Decision establishes a coordinated and timely environmental review process. Agencies must develop and follow a permitting timetable, with the goal of completing environmental reviews within 2 years. Agencies will then produce a single environmental document.

This is a commonsense approach that emphasizes interagency coordination, accountability, and transparency. The policy will help agency leaders and their staffs achieve better consistency, communication, and coordination in the Federal permitting process.

The Council on Environmental Quality is also considering changes to its regulations implementing the National Environmental Policy Act, or NEPA. Last summer, the Council issued an advanced notice of proposed rulemaking requesting comment on potential updates to its implementing regulations. It received over 12,000 comments. I believe the Council should consider substantial revisions to the NEPA regulations. These regulations are over 40 years old and need to be updated.

It is difficult to overstate the importance of reforming NEPA regulations. For years we have talked about the Act as a source of delay and uncertainty. We feel its effects nearly everywhere. Satisfying NEPA is almost always a prerequisite to Government action.

For my home State of Wyoming, the law plays an integral role in the development of land use and resource management plans that affect coal and natural gas production. The Act often delays permits to Wyoming's farmers, ranchers, and businesses, the permits that they need. They need them to keep their lands productive and to maintain their livelihood.

More broadly, NEPA is at the core of every agency decision to construct, to fund, or to approve roads, bridges, pipelines, dams, and other critical infrastructure. By improving NEPA, the Trump administration will reduce delays and end duplicative reviews. It also will stop nuisance litigation, improve the usefulness of environmental review, and better incentivize interagency coordination.

I look forward to hearing more about what the Council on Environmental Quality is currently doing to both protect the environment and support economic growth. We can and we must do both.

I will now turn to Ranking Member Carper for his opening remarks.

**OPENING STATEMENT OF HON. THOMAS R. CARPER,  
U.S. SENATOR FROM THE STATE OF DELAWARE**

Senator CARPER. Thanks, Mr. Chairman.

Ms. Neumayr, great to see you. Welcome. We are delighted that you could appear before us for this conversation on the Council on Environmental Quality.

My colleagues recall well the nominating process that preceded your nomination, and we are pleased that you are sitting here and not someone else.

Ms. Neumayr, during your confirmation process, you made commitments, as you recall, to members of our Committee, including me, on a number of critical environmental concerns, and we are just grateful for this opportunity to check in on those issues and maybe to discuss several others.

Specifically, you committed that under your leadership, CEQ would support Federal planning and preparation for extreme weather events. I look forward to hearing an update on that, as well as on the status of CEQ greenhouse gas guidance for Federal agencies.

However, since your confirmation, I have been a bit disappointed to hear statements from this Administration, more than a bit disappointed to hear statements from this Administration undermining climate science, and particularly to learn that CEQ may be helping to block common sense climate actions such as the ratification of the Kigali Amendment to the Montreal Protocol, which would bring with it substantial job creation in this country and economic growth in this country.

These developments are very disappointing. The Fourth National Climate Assessment was crystal clear: If we do not act quickly and boldly, climate change will continue to wreak havoc even more on our Nation's infrastructure, on public health, and on economic growth.

At a time when large parts of this country are bone dry and prone to wildfires—in my State we raise a lot of chickens, a lot of corn, a lot of soybeans. In southern Delaware and on the Delmarva Peninsula, a lot of farmers haven't even been able to get on their fields yet to plant anything. I drove through southern Delaware the other day, and one large field after another unplowed, just water and mud. Something is going on here, and I think it is becoming increasingly clear.

As you know, part of CEQ's mission is to coordinate Federal actions to address cross-cutting environmental issues like climate change and resilience. Our Nation's transportation system is far too energy intensive and vulnerable to our new climate reality.

CEQ should be laser focused on coordinating Federal actions to reduce greenhouse gases and making sure our Nation's infrastructure is built to withstand climate change impacts, including through the NEPA process. Instead of fulfilling these obligations, this Administration has largely revoked all climate resiliency and mitigation actions taken by the previous Administration and has focused on NEPA streamlining.

I have said it before, and I will say it again: We cannot streamline our way to more funding. Neither can we streamline our way to a healthier climate. In fact, the wrong types of environmental

streamlining could make our already dire situation even worse. As our Committee and this Administration focuses on surface transportation reauthorization efforts, it is important to dispel the notion that NEPA is the main impediment to infrastructure development.

In fact, the non-partisan General Accountability Office and the Congressional Research Service have documented that 96 percent of projects approved by the Federal Highway Administration are categorically excluded from the NEPA process. Let me say that again. According to GAO and CRS, 96 percent of projects approved by the Federal Highway Administration are categorically excluded from the NEPA process.

The projects that do trigger NEPA do so because these projects have potential environmental impacts to communities that may last for decades and possibly for centuries. Study after study has shown that it is not NEPA, but rather a lack of funding, that is the primary cause of project delays, or stop and go funding; inadequate funding in some cases, and frankly, just not knowing if the money is going to come.

Nevertheless, environmental streamlining has been a part of every highway bill in the last 20 years, and it should be. It should have been. At minimum, there were 10 streamlining and flexibility provisions adopted in the 1998 highway bill—10. In 2005, 10 provisions were adopted. In 2012, an additional 23 provisions were adopted. And the FAST Act last implemented, I believe, 28 provisions were adopted.

I am not really good at math, but I think that might be—let's see, 10, 20, 43. I think that is 71. That is 71. So, what I would urge that we do as we go through this consideration for additional streamlining, let's collect better data to find out which of all those dozens of provisions that we have adopted in the last 20 years, which are working, which are not, which need to be addressed and revisited.

We should also focus on fixing something that we know is delaying projects, and that is causing significant reduction in both staffing and NEPA training opportunities. Let's make clear, let's make sure the agencies that protect our environment have the resources to do that.

Last year, as you may know, CEQ published an advanced notice of proposed rulemaking regarding NEPA regulations. The questions posed in this rulemaking touch on every aspect of the NEPA process and signal an openness to redefining crucial NEPA terms that help make the law effective.

Ms. Neumayr, during your confirmation process, you committed to a public engagement process that would allow for significant feedback, commensurate with the scope of this rulemaking. I have not yet heard how CEQ plans to make this a reality, but we look forward to hearing about that soon.

Let me close this morning with a couple of quotes for former President Richard Nixon. I am the only Democrat I know who quotes Richard Nixon.

The first can be found in his remarks when he signed the National Environmental Protection Act (NEPA) into law in 1970. On that date, these were his words: "Once the damage is done, it is



much harder to turn around.” Once the damage is done, it is much harder to turn around.

He also would say, a few years later, these words: “The only people who don’t make mistakes are people who don’t do anything.” That is my favorite.

Climate change and extreme weather are real, and we need to do something about them now; not as Democrats, not as Republicans, not as Independents, but as Americans.

Time is not on our side. More than ever, we need to move forward, and we need to do so in a bipartisan way in order to ensure that our infrastructure is built for the long haul and that we are not throwing good money after bad, and that, while we are addressing those concerns, we are creating more jobs and economic opportunity in this country. They are not mutually exclusive.

I am hoping this hearing will better inform our efforts so that the steps we take will help ensure that our children, our grandchildren have a truly bright future here on Planet Earth. It is the only planet that most of us will ever know.

Thank you, Mr. Chairman.

And welcome, Ms. Neumayr.

Senator BARRASSO. Thank you very much, Senator Carper.

Before we turn to Mary Neumayr for your testimony, I would point out and submit for the record that yesterday it was reported that Speaker Nancy Pelosi made the following remarks regarding potential infrastructure legislation at an event with the Transportation Construction Coalition. This is what the Speaker said. She said, “We don’t want lawsuits; we want dirt to fly.” She said, “Once we decide that the resources are there, the choices are made. We don’t want to go to court; we want dirt to fly.”

I am going to submit for the record the article to that effect that was reported out today in Politico.

Senator CARPER. Did they report what I said? She was my warm up act.

Senator BARRASSO. Not yet. That is going to be breaking news, apparently, at the top of the hour.

Senator CARPER. Four standing ovations. No, not really. It was good to be there with her, and I thought there was a good spirit in that room.

[The referenced information follows:]

**From:** POLITICO Pro Transportation Whiteboard <[politicoemail@politicopro.com](mailto:politicoemail@politicopro.com)>  
**Sent:** Tuesday, May 14, 2019 5:32 PM  
**To:** Danylak, Mike (EPW) <[Mike\\_Danylak@epw.senate.gov](mailto:Mike_Danylak@epw.senate.gov)>  
**Subject:** Pelosi: Housing and schools not in \$2T plan

By Tanya Snyder

05/14/2019 05:30 PM EDT

House Speaker Nancy Pelosi said today that funding for housing and schools will not be included in the \$2 trillion infrastructure plan being discussed with the White House.

"We have a tremendous deficit in our schools," Pelosi told a gathering of the Transportation Construction Coalition. But she said that "on another occasion we'll talk about schools and housing, because they kind of come into a different funding mechanism."

According to Pelosi, President Donald Trump started a meeting last week with Democrats by talking about roads, but Pelosi said they had to include transit, water systems, broadband and more. She said the definition of infrastructure may even need to be broadened to include satellite infrastructure.

"Our farmers are doing precision farming," she said. "So much of our technology depends on our satellites. So I said to the president we really may need to rebuild, maintain in a better way, our satellites."

She said Democrats presented the president with "a few criteria," including that it be "green and have resiliency for the future."

She also said she wanted infrastructure to be built in a way that is "cooperative in communities," including on Native American reservations, building consensus in part to avoid conflict that could hold projects up.

"We don't want — how can I say this in a nice way? **We don't want lawsuits, we want dirt to fly," Pelosi said. "Once we decide that the resources are there, the choices are made, we don't want to go to court, we want dirt to fly."**

*To view online:*

<https://subscriber.politicopro.com/transportation/whiteboard/2019/05/pelosi-housing-and-schools-not-in-2t-plan-3255317>

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Senator BARRASSO. Thanks so much for being here.

We have today with us Mary Neumayr, the Chairman of the Council on Environmental Quality.

I want to remind the witness your full written testimony will be made part of our official hearing record, so please try to keep your statement to about 5 minutes so that we will have time for questions.

We look forward to your testimony.

**STATEMENT OF MARY BRIDGET NEUMAYR,  
CHAIRMAN, COUNCIL ON ENVIRONMENTAL QUALITY**

Ms. NEUMAYR. Chairman Barrasso, Ranking Member Carper, and members of the Committee, thank you for the opportunity to be here with you again. Last summer I testified before you as the President's nominee to lead the Council on Environmental Quality, and I am grateful for the opportunity to testify before you today as Chairman.

I am pleased to update the Committee on several Administration priorities and directives that CEQ is currently implementing with respect to environmental reviews and permitting of new infrastructure, increasing the efficiency of Federal agency operations, and promoting the health and prosperity of our Nation's oceans, Great Lakes, and coastal communities.

The National Environmental Policy Act established CEQ in 1970, and one of the Council's core responsibilities is to oversee implementation of NEPA's environmental review process by Federal agencies. As the Committee is aware, reviews under NEPA may involve numerous Federal agencies and overlapping statutory requirements, and can result in a lengthy, inefficient, and costly process. CEQ has compiled data relating to the timelines for Federal agencies to complete environmental impact statements under NEPA and has found that, across Federal Government, the average time for completion of environmental impact statements issued between 2010 and 2017 was 4 and a half years.

To promote more timely environmental reviews and the development of modern, resilient infrastructure, President Trump signed an Executive Order in August 2017 which established a One Federal Decision policy for Federal environmental reviews of major infrastructure projects. For such projects, the Executive Order directs Federal agencies to develop a joint schedule and to prepare a single environmental impact statement and single record of decision. The Executive Order also sets a 2-year goal for completing environmental reviews.

CEQ has convened an interagency working group to implement the Executive Order and One Federal Decision policy, and pursuant to guidance issued by CEQ and the Office of Management and Budget, 11 Federal agencies and the Federal Permitting Improvement Steering Council have signed a Memorandum of Understanding committing to implement the policy. The initial list and schedules for projects Federal agencies will be processing under the One Federal Decision policy is now publicly available and will be updated on an ongoing basis.

The President's Executive Order also directs CEQ to undertake actions it deems necessary to modernize and enhance the environ-

mental review and authorization process, including through issuance of guidance and regulations. As many of you know, NEPA was enacted nearly 50 years ago, and CEQ's implementing regulations were issued in 1978 and have been substantively amended only once, in a limited respect, in 1986.

Last summer, CEQ issued an advanced notice of proposed rule-making requesting comment on potential revisions to update its regulations. CEQ received over 12,500 comments and is currently considering potential revisions informed by those comments.

CEQ has also sent draft guidance on consideration of greenhouse gas emissions when conducting NEPA analyses to the Office of Management and Budget for interagency review. Following completion of that review, CEQ intends to publish its draft guidance for public comment.

CEQ has also compiled a comprehensive list of Federal agencies' categorical exclusions, or CEs. CEs are not exemptions from NEPA, but rather, are a form of NEPA review that reduces paperwork and allows agencies to focus their resources on actions that may significantly affect the environment. This list is intended to provide Federal agencies, project applicants, and the public with a single database of Federal agencies' CEs.

Another priority of the Administration has been ensuring compliance by Federal agencies with statutory requirements relating to energy and environmental performance. In May 2018, President Trump issued an Executive Order directing Federal agencies to meet relevant requirements in a manner that increases efficiency, optimizes performance, eliminates unnecessary use of resources, and protects the environment. CEQ recently issued implementing instructions to agencies and will make data on agency performance publicly available.

Finally, I know that the health and prosperity of our Nation's oceans, Great Lakes, and coastal communities is a priority for many members of this Committee. In June of last year, President Trump issued an Executive Order which streamlines Federal agency coordination on ocean related matters through the establishment of an interagency Ocean Policy Committee cochaired by CEQ and the Office of Science and Technology Policy. The Executive Order prioritizes Federal agency engagement with State led regional ocean partnerships, coordination on research technology and ocean resource management, and expanded public access to Federal ocean related data.

Thank you again for the opportunity to testify today. I would be happy to answer any questions and look forward to working with this Committee to advance environmental protection.

[The prepared statement of Ms. Neumayr follows:]



**Mary B. Neumayr**  
**Chairman**  
**Council on Environmental Quality**

Mary B. Neumayr is the current Chairman of the Council on Environmental Quality (CEQ). She was unanimously confirmed by the U.S. Senate on January 2, 2019 and sworn in as Chairman on January 10, 2019. Prior to her appointment, Ms. Neumayr had been serving as CEQ's Chief of Staff since March 2017.

Before joining CEQ, Ms. Neumayr served in a variety of positions with the Committee on Energy and Commerce in the U.S. House of Representatives, including as Deputy Chief Counsel, Energy and Environment (2017); Senior Energy Counsel (2011-2017); and Counsel (2009-2010). Ms. Neumayr also served as Deputy General Counsel for Environment and Nuclear Programs at the U.S. Department of Energy (2006-2009), and as Counsel to the Assistant Attorney General for the Environment and Natural Resources Division at the U.S. Department of Justice (2003-2006).

Prior to her government service, Ms. Neumayr was in private legal practice from 1989 through 2003 in New York and San Francisco. She received her B.A. from Thomas Aquinas College and her J.D. from the University of California, Hastings College of the Law.

**Written Statement of Mary B. Neumayr, Chairman  
Council on Environmental Quality  
Before the U.S. Senate Committee on Environment and Public Works  
May 15, 2019**

Chairman Barrasso, Ranking Member Carper, and Members of the Committee, thank you for the opportunity to be here with you again. Last summer, I testified before you as the President's nominee to lead the Council on Environmental Quality (CEQ), and I am grateful for the opportunity to testify before you today as Chairman. I am pleased to update the Committee on several Administration priorities and directives that CEQ is currently implementing with respect to environmental review and permitting of new infrastructure; increasing the efficiency of Federal agency operations; and promoting the health and prosperity of our nation's oceans, Great Lakes and coastal communities.

The National Environmental Policy Act (NEPA) established CEQ in 1970, and one of its core responsibilities is to oversee implementation of NEPA's environmental review process by Federal agencies. As the Committee is aware, reviews under NEPA may involve numerous Federal agencies, overlapping statutory requirements, and can result in a lengthy, inefficient, unpredictable, and costly process. CEQ has compiled data relating to the timelines for Federal agencies to complete environmental impact statements (EISs) under NEPA. CEQ found that across the Federal government the average time for an EIS completed during the period 2010 through 2017, measured from issuance of a Notice of Intent to prepare an EIS to issuance of a Record of Decision (ROD), was four and a half years.

To promote more timely environmental reviews and the development of modern, resilient infrastructure, President Trump signed Executive Order 13807, titled "Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects," in August of 2017. This Executive Order seeks to reduce unnecessary burdens and uncertainties of the Federal regulatory process that can delay major infrastructure projects and hold back the economic, social, and environmental benefits of improved infrastructure. This Executive Order builds on the efforts of prior administrations to streamline permitting without compromising important environmental protections.

Executive Order 13807 establishes a One Federal Decision (OFD) policy for Federal environmental reviews of major infrastructure projects. The Executive Order defines a major infrastructure project as a project for which multiple authorizations by Federal agencies are required to proceed to construction, the lead Federal agency has determined that it will prepare an EIS under NEPA, and the project sponsor has identified the reasonable availability of funds needed to complete the project. For such projects, the Executive Order directs Federal agencies to work collaboratively to develop a joint schedule, referred to as a “Permitting Timetable,” prepare a single EIS and a single ROD, and ensure that they have processes in place to elevate and resolve issues that may result in schedule delays in a timely manner. The Executive Order sets a goal for completing environmental reviews within two years, and directs Federal agencies, with limited exceptions, to issue necessary authorizations within 90 days of issuance of the ROD.

CEQ has convened an interagency working group to implement the Executive Order,<sup>1</sup> and in March of 2018, CEQ and the Office of Management and Budget (OMB) issued guidance for Federal agencies on implementation of the OFD policy. Pursuant to that guidance, on April 9, 2018, eleven Federal agencies and the Federal Permitting Improvement Steering Council (established by the FAST Act) signed a Memorandum of Understanding (MOU) committing to implement the OFD policy for major infrastructure projects. In September of 2018, OMB, in consultation with CEQ, also issued guidance establishing an accountability system to track compliance with the OFD policy. CEQ and OMB have also issued OFD guidance where a State, tribal, or local agency has been assigned NEPA responsibilities under the Surface Transportation Project Delivery Program.

Pursuant to Executive Order 13807, Federal agencies are identifying major infrastructure projects to be processed under the OFD policy, and the schedules for the environmental reviews for these projects are being made publically available.<sup>2</sup> Agencies will continue to identify major infrastructure projects to be processed under the OFD policy going forward, and CEQ will work

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<sup>1</sup> Information relating to CEQ’s implementation of Executive Order 13807, and links to all guidance and reports cited in this testimony is available at <https://www.whitehouse.gov/ceq/initiatives/>.

<sup>2</sup> A list of major infrastructure projects and links to their schedules are available at <https://www.permits.performance.gov/projects>, and this list will be updated on an ongoing basis.

with OMB to promote increased Federal agency coordination and transparency for the environmental reviews and authorization processes for these projects.

In addition to establishing the OFD policy, Executive Order 13807 also directs CEQ to undertake such actions that it deems necessary to modernize and enhance the environmental review and authorization process, including through issuance of regulations and guidance. As many of you know, NEPA was enacted nearly 50 years ago and CEQ's implementing regulations were issued over four decades ago. While CEQ has only substantively amended those regulations once in one very limited respect in 1986, CEQ has issued over 30 guidance documents relating to implementation of NEPA.

Pursuant to Executive Order 13807, and given the amount of time since its regulations were promulgated, last summer CEQ issued an Advance Notice of Proposed Rulemaking requesting comment on potential revisions to update its regulations to ensure a more effective, timely, and efficient process for decision-making by Federal agencies. CEQ received over 12,500 comments, including from states, localities, trade associations, environmental organizations, NEPA practitioners, academia, and interested members of the public. CEQ is currently considering potential revisions to its regulations informed by those comments.

CEQ has also sent draft guidance to the OMB for interagency review relating to the consideration of greenhouse gas (GHG) emissions when conducting NEPA analyses. On March 28, 2017, President Trump issued Executive Order 13783, which directed CEQ to rescind prior guidance issued in August of 2016 relating to consideration of GHG emissions under NEPA. CEQ withdrew this final guidance for further consideration on April 5, 2017. Following completion of the pending interagency review, CEQ intends to publish its draft guidance in the Federal Register for public comment.

To further promote transparency and increase coordination across Federal agencies, CEQ has also compiled a comprehensive list of Federal agencies' categorical exclusions (CEs). CEs are actions that a Federal agency, in consultation with CEQ, has determined do not normally have a significant impact on the environment. CEs are not exemptions from NEPA, but rather they are a form of NEPA review that reduces paperwork and allow agencies to focus their resources on actions that may significantly affect the environment. The CE list is intended to provide Federal agencies, project applicants, States, Tribes, and the public with a single database



for Federal agencies' CEs, and to promote consistency as Federal agencies update their NEPA procedures.

Another priority of the Administration has been to ensure compliance by Federal agencies with statutory requirements relating to energy and environmental performance. In May of 2018, President Trump issued Executive Order 13834, titled "Efficient Federal Operations," which directs Federal agencies to manage their buildings, vehicles, and overall operations to optimize energy and environmental performance, reduce waste, cut costs, and to meet relevant requirements in a manner that increases efficiency, optimizes performance, eliminates unnecessary use of resources, and protects the environment. CEQ recently issued implementing instructions to provide Federal agencies with detailed guidance, including planning and reporting requirements, metrics to measure progress and performance, and resources for implementation. CEQ plans to make progress data for agency performance, and implementation updates publically available.

Finally, I know the health and prosperity of our nation's oceans, Great Lakes and coastal communities is a priority for many Members of the Committee. In June of last year, President Trump signed Executive Order 13840, titled "Ocean Policy to Advance the Economic, Security and Environmental Interests of the United States," which streamlines Federal agency coordination on ocean related matters through the establishment of an interagency Ocean Policy Committee (OPC), co-chaired by CEQ and the Office of Science and Technology Policy. The Executive Order establishes a number of priorities for agencies, including engagement with Regional Ocean Partnerships, interagency coordination related to research, technology, and ocean resource management, and expanded public access to Federal ocean-related data. CEQ looks forward to continued collaboration through the OPC with Regional Ocean Partnerships, marine industries, environmental organizations, the ocean science and technology community, and other ocean stakeholders.

Thank you again for the opportunity to testify here today. I would be happy to answer any questions and I look forward to continuing to work with this Committee to advance environmental protection.

Senate Committee on Environment and Public Works  
Hearing entitled, "*Oversight of the Council on Environmental Quality*"  
May 15, 2019  
Questions for the Record for Ms. Neumayr

**Chairman Barrasso:**

1. The One Federal Decision policy sets high-level timing, format, and accountability goals for federal agencies, but it does not set forth specific mechanisms for agencies to meet the Executive Order's requirements. For this reason, most of the relevant federal agencies signed a Memorandum of Understanding to implement the One Federal Decision policy and explicate how the policy will affect agencies operations.
  - a. If Congress were to codify the core elements of the One Federal Decision policy, should Congress also look to codify the whole or parts of the implementing Memorandum of Understanding?

**Answer:** The Council on Environmental Quality (CEQ) is available to work with you, your staff, and Members of the Committee by providing technical assistance on legislation. The One Federal Decision (OFD) policy established by Executive Order (EO) 13807 directs Federal agencies with a role in the environmental review and permitting process for a major infrastructure project to coordinate the environmental review and decision-making process schedule for that project. The core elements of the policy include i) preparation by the lead agency, in consultation with cooperating agencies, of a schedule, referred to as a Permitting Timetable, for completing the necessary environmental review and authorization decisions; ii) preparation of a single environmental impact statement (EIS) and a single record of decision (ROD); and iii) issuance of all necessary authorization decisions within 90 days of issuance of the ROD, subject to limited exceptions. EO 13807 also sets a goal for agencies of reducing the time for completing environmental reviews and authorization decisions to an agency average of not more than two years, and directs Federal agencies to timely elevate and resolve interagency issues that may result in schedule delays.

- b. Is it better to codify the core elements of the One Federal Decision policy and allow the federal agencies the flexibility to implement agreements that facilitate the One Federal Decision policy?

**Answer:** The April 9, 2018 Memorandum of Understanding (MOU) is based on the core elements described above and is designed to coordinate agency processes while fully preserving each agency's statutory authority, independence, and ability to comply fully with the National Environmental Policy Act (NEPA) and related statutes. CEQ will continue to work with agencies to promote timely environmental reviews, and is available to work with you, your staff, and Members of the Committee by providing technical assistance on legislation.

2. Common Good has estimated that a six-year delay in starting construction on public projects costs the nation over \$3.7 trillion. Section 4(b)(ii)(C) of Executive Order 13807 directs agencies to estimate the cost of delay of projects if permitting timetable milestones are not met. The section states that this will be developed and provided within an OMB guidance, yet we have not seen any draft or final OMB guidance on this issue. As the costs of delay will significantly help us in Congress determine the impacts of permitting delays and where additional resources might be necessary, I am concerned that there has not been any movement on this important issue. Can you provide the timeline for when this section will be implemented?

**Answer:** Pursuant to Section 4(b)(ii)(C) of EO 13807, on September 26, 2018, OMB, in consultation with CEQ and the Federal Permitting Improvement Steering Council, established the Performance Accountability System. (OMB Memorandum M-18-25, “Modernize Infrastructure Permitting Cross-Agency Priority Goal Performance Accountability System” available at <https://www.whitehouse.gov/wp-content/uploads/2018/09/M-18-25.pdf>). This guidance specifically provides that the lead agencies submit the estimated cost of delay to OMB no later than 60 days after a significant delay is identified on a Permitting Timetable. Agencies have begun to identify and provide information to OMB regarding major infrastructure projects to be processed under the OFD policy, and for those projects, the lead agencies will be required under the OMB accountability system guidance to report on the estimated cost of delays, if any.

3. The current CEQ NEPA regulations require two, if not three, different public comment periods, depending on the level of review. NEPA itself does not require a single comment period, though the public scoping and draft environmental document publication process described in the CEQ regulations adds additional notice, comment, and other processes to gather input from stakeholders and the public. However, just because there are more chances for comment does not necessarily mean that there is more or better public engagement. We have seen repeatedly how bad-faith actors use the comment process to obstruct and delay infrastructure projects. In response, agencies seek to protect themselves from lawsuits by turning NEPA’s “stop and look” requirement into a “stop and look,” “stop and look again,” and then “stop and look again” process, which results in significant delays without providing substantive additional environmental benefits.
  - a. How is CEQ improving the NEPA process and helping federal agencies ensure meaningful public engagement while not falling into the traps currently laid by the existing public comment process?

**Answer:** CEQ is working with Federal agencies to implement the OFD policy established by EO 13807. The guidance issued by CEQ and OMB on March 20, 2018, and Sections VIII and IX of the MOU signed by agencies on April 9, 2018, provides for early engagement by Federal agencies with states, tribes, localities, and the public to ensure a timely process for environmental reviews.

Under NEPA, agencies are required to prepare a detailed statement for proposed major Federal actions significantly affecting the quality of the human environment. In carrying out their NEPA responsibilities, agencies use their expertise and experience to decide how and to what degree to analyze effects of the proposed action. CEQ's regulations provide for public notice and an opportunity to comment where an agency has determined it is appropriate to prepare an EIS. CEQ's current NEPA regulations require Federal agencies to draft an EIS by using a public scoping process to obtain the views of agencies and others with information and expertise on the significant environmental impacts and alternatives to such a proposed action. An agency's implementing procedures may also provide additional opportunities for public comment during the NEPA process.

- b. Would it be better to require one public comment period consistent with the procedures laid out in the long-standing Administrative Procedure Act?

**Answer:** CEQ's Advance Notice of Proposed Rulemaking (ANPRM) (83 FR 28591), issued last year, sought comments on many topics including with respect to the scope of NEPA reviews. It asked, "Should the provisions in CEQ's NEPA regulations relating to public involvement be revised to be more inclusive and efficient, and if so, how?" CEQ is currently reviewing the comments received in response to the ANPRM, including comments relating to public involvement in the NEPA process.

**Ranking Member Carper:**

Please provide a response to each question, *including each sub-part*.

4. In a response that you provided to my staff during the course of your confirmation, you clarified that the “majority” of highway projects fall within categorical exclusions and do not constitute a significant burden. That response understates the fact that 96 percent of highway projects are categorically excluded from NEPA. Do you agree that for the vast majority of projects – as high as 96 percent – NEPA approvals do not delay the issuance of permits?

**Answer:** Yes, I agree that the majority of highway projects fall within categorical exclusions and do not constitute a significant burden because they do not require preparation of an environmental impact statement (EIS) or an environmental assessment (EA) under the National Environmental Policy Act (NEPA). A Government Accountability Office (GAO) report issued in June 2012 titled “Highway Projects: Some Federal and State Practices to Expedite Completion Show Promise” (2012 GAO Report) stated: “Based on data collected in 2009, the Federal Highway Administration (FHWA) estimates that 96 percent of environmental reviews for highway projects are processed as categorical exclusions.” The 2012 GAO Report also noted that examples of the types of highway projects generally processed as categorical exclusions include resurfacing, constructing bicycle lanes, installing noise barriers, and landscaping.

For major highway infrastructure projects, such as construction of new highways and corridor and bypass improvement projects, the FHWA must typically undertake development of an EIS or EA, which can be a complex, multi-year process and may involve a number of other Federal agencies. In December 2018, CEQ released a report examining the timelines for Federal agencies to complete EISs under NEPA. CEQ found that across the Federal government the average time for an EIS completed during the period 2010 through 2017, measured from issuance of a Notice of Intent (NOI) to prepare an EIS to issuance of a Record of Decision (ROD), was four and a half years. During this period, FHWA completed 114 EISs and the average time from issuance of a NOI to issuance of a ROD was over seven years. (See *Environmental Impact Statement Timelines (2010-2017)* report at <https://www.whitehouse.gov/wp-content/uploads/2017/11/CEQ-EIS-Timelines-Report.pdf>)

5. Last June, CEQ published an Advance Notice of Proposed Rulemaking (ANPRM) to consider potential updates and clarifications to its NEPA implementing regulations. That ANPRM initially offered a short public comment period of 30 days, and although it was later extended to 60 days, no public hearings were conducted. The original regulations and the singular amendment to those regulations went through considerable deliberations both internally and by the public. During your confirmation hearing, I asked you if you would commit to a minimum 90 day public comment period if a notice of proposed rulemaking is released. You did not directly answer my question. Will you commit to a minimum 90 day public comment period if a notice of proposed rulemaking is released? If you will not commit, why not?

**Answer:** At this time, CEQ has not submitted a proposed rule to the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) for interagency review, and therefore we have not made any decisions regarding public comment periods. Should CEQ issue a proposed rule setting forth potential revisions to its NEPA regulations, CEQ will consider all options for public engagement, including public hearings, meetings, virtual public involvement (e.g. webinar), and fully utilizing [regulations.gov](https://www.regulations.gov), which provides an opportunity for the public to comment directly on a proposed agency action.

6. On August 17, 2018 you committed to me to hold at least one public hearing on the NEPA regulation revision in the Mid-Atlantic. And in response to my Questions for the Record during your confirmation, you committed to me that "CEQ will hold public meetings to receive comments and will pursue a process that is commensurate with the scope of the rulemaking if CEQ proposes revisions." When CEQ undertook regulatory reviews in 1978, 1981, 1985, and 1997, it held public meetings to solicit additional input of private citizens and stakeholders, whether for the release of studies, guidance, or regulations. Commensurate with the far-reaching scope of this rulemaking, will you commit to public hearings in multiple regions of the country, such as each of the EPA regions? If you will not commit, why not?

**Answer:** Public participation and engagement in the rulemaking process is a priority. In response to the Advanced Notice of Proposed Rulemaking (ANPRM), CEQ received over 12,500 public comments. CEQ has not sent a regulatory proposal to OIRA for interagency review, and therefore no locations for public hearings have been determined. Should CEQ propose revisions to its implementing regulations, we will hold public hearings, including in the Mid-Atlantic region, to receive comments and provide interested parties the opportunity to present data, views, or information, and will pursue a process that is commensurate with the scope of a proposed rulemaking.

7. NEPA is closely aligned with the principles of environmental justice. For example, NEPA ensures that the environmental, health, and economic impacts of federal projects are disclosed and communities impacted by federal projects are given a meaningful voice. In response to my Questions for the Record during your confirmation, you committed to me that addressing environmental issues for low income and minority communities will be a priority.
  - a. How have you begun to prioritize low income and minority communities when considering new or improved infrastructure or other federal projects?

**Answer:** CEQ continues to serve as an active participant in the work of the Environmental Justice Interagency Working Group (EJ IWG). In April, CEQ hosted a meeting of the EJ IWG and CEQ regularly participates in its NEPA sub-committee. CEQ presented an overview of the One Federal Decision (OFD) policy established by Executive Order (EO) 13807 to the EJ IWG last October and discussed ways in which agencies can better integrate outreach to environmental justice communities early in the process of developing

infrastructure projects. CEQ makes environmental justice materials available to NEPA practitioners and the public on NEPA.gov (<https://ceq.doe.gov/nepa-practice/justice.html>).

- b. What specific outreach have you made to engage with these communities during the NPRM process?

**Answer:** In connection with review of its NEPA implementing regulations, CEQ engaged in significant public outreach beyond what is required by the rulemaking process. This has included issuance of an ANPRM which, while not required as part of the rulemaking process, provided an opportunity for comment by the public on a wide range of topics relating to CEQ's NEPA implementing regulations.

CEQ's ANPRM was published in the Federal Register on June 20, 2018, and posted on CEQ's website at <https://www.whitehouse.gov/ceq/initiatives/> and NEPA.gov at <https://ceq.doe.gov/laws-regulations/regulations.html>. In conducting public outreach, CEQ distributed the ANPRM to a wide range of stakeholders, including to CEQ's stakeholder distribution list, which includes points of contact at over 250 environmental organizations, academic institutions, trade associations, and other non-governmental organizations.

In response to requests from the public, CEQ also extended the comment period for the ANPRM from July 20, 2018, to August 20, 2018, and accepted comments submitted to [regulations.gov](https://www.regulations.gov) as well as by regular mail. Input from minority and low-income community members were reflected among the over 12,500 comments received.

- c. What interaction does CEQ have with these communities on a day to day basis?

**Answer:** CEQ meets with a wide variety of stakeholders on request and with regard to specific issues. CEQ has met with representatives of environmental justice communities, tribes, and non-governmental organizations.

8. I am aware of only two studies that have examined how agency resources impact NEPA implementation. The first study is by the Environmental Law Institute in 1981, which examined the personnel, budget and expertise within nineteen agencies. The second study is by the Natural Resources Council of America in 2002<sup>1</sup>, which examined capacity at twelve agencies. Would you support an updated study by the Government Accountability Office or some other entity to examine how agency resources impact NEPA implementation? If not, why not?

**Answer:** The GAO consults with CEQ on its studies, initiated at the request of Congressional committees or directed in statute, as appropriate. CEQ's NEPA implementing regulations direct agencies to ensure that they have the capability to implement NEPA, and I believe Federal agencies have sufficient resources. To more effectively allocate their resources and better coordinate environmental reviews, CEQ

<sup>1</sup> Natural Resources Council of America, *NEPA in the Agencies – 2002*, <https://web.archive.org/web/20030711101234/http://www.naturalresourcescouncil.org/ewebeditpro/items/O89F2656.pdf> (October 2002)

continues to work with agencies to implement the One Federal Decision (OFD) policy. CEQ also conducts quarterly NEPA Contacts meetings to consult with staff across Federal agencies regarding issues relating to implementation of NEPA and periodic training for Federal agency NEPA practitioners.

9. NEPA and other associated environmental reviews are more efficient and timely when agencies have developed high functioning collaborative relationships with the public and other agencies long before they start planning a project. The process established in the FAST Act requires lead agencies to consult with other participating and cooperating agencies early in the project review process. What is CEQ doing to implement these requirements and ensure that agencies take this proactive approach to surface issues early in the project review process?

**Answer:** As a member of the Federal Permitting Improvement Steering Council (Permitting Council), CEQ works to support implementation of Title 41 of the Fixing America's Surface Transportation Act (FAST-41), Pub. L. No. 114-94. CEQ provides input on the development of best practices, including those that relate to early engagement and relationship building between agencies. CEQ and OMB issued guidance documents regarding early consultation in the implementation of FAST-41 and EO 13807. (CEQ-OMB Memorandum M-17-14, "Guidance to Federal Agencies Regarding the Environmental Review and Authorization Process for Infrastructure Projects" available at <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/m-17-14.pdf>; and CEQ-OMB Memorandum M-18-13, "One Federal Decision Framework for the Environmental Review and Authorization Process for Major Infrastructure Projects under Executive Order 13807" available at <https://www.whitehouse.gov/wp-content/uploads/2018/04/M-18-13.pdf>.)

The OFD policy established by EO 13807 incorporates many of the principles and best practices of FAST-41, while fully preserving the agencies' statutory responsibilities to comply with NEPA and related statutes. CEQ also convenes an interagency working group under EO 13807 to improve agency implementation of the OFD policy. These meetings include presentations on the importance of early engagement and collaborative relationships among agencies.

10. The FAST Act established a number of new practices and approaches designed to speed project approval and achieve more efficient and timely reviews. The success of this approach depends on implementation at the field level. To achieve this, agencies must properly train field-level staff who are responsible for many project reviews. What has CEQ done to ensure agencies are educating their staff about the expedited project approval process established in the FAST Act?

**Answer:** CEQ works closely with the Permitting Council to support implementation of FAST-41. CEQ also leads a quarterly meeting of the Federal NEPA Contacts where issues of FAST Act implementation are a regular agenda item. Additionally, CEQ also assists in interagency issue resolution on NEPA-related matters for FAST-41 covered projects.



11. I understand that Charlotte Skidmore is the new Chief Sustainability Officer at CEQ. During your confirmation, you committed to working with Federal agencies to meet their statutory requirements, including improving environmental and energy performance. Have you made this a priority for Ms. Skidmore, and what progress has been made so far?

**Answer:** EO 13834 emphasized agencies prioritize actions to reduce waste, cut costs, enhance resilience of Federal infrastructure and operations and enable more effective accomplishment of its mission. In implementing the EO, CEQ's aim is to continue providing flexibility, to simplify compliance, and ensure agencies have the guidance and technical resources they need for effective implementation. The EO Implementing Instructions, issued April 30, 2019, are intended to assist agencies in planning, reporting and meeting the EO goals.

CEQ's new Federal Chief Sustainability Officer, Charlotte Skidmore, will prioritize implementation of the EO and oversee activities to support agencies in achieving the EO goals. Under her leadership, and in coordination with OMB, CEQ will support continued progress to achieve the EO directive to manage operations efficiently, protect the environment, and enhance the resilience of Federal infrastructure and operations in a cost effective manner.

12. Executive Order 13690, signed in 2015, provided a flexible framework to establish a new flood risk management standard for federally funded projects. Once implemented, it would mean roads, bridges and other infrastructure built with federal dollars would be done with climate resiliency in mind. This effort was halted and revoked by President Trump's August 15, 2017 Executive Order to streamline the infrastructure permitting process. As we see today in the Midwest, when flooding impacts our infrastructure, it can have devastating and deadly effects. Allowing future infrastructure to be built without doing all we can to prevent or mitigate against extreme weather events puts American lives and taxpayer dollars at unnecessary risk.

- a. Will the Federal flood risk management standard be replaced, and if so, when? If not, why not?

**Answer:** The Administration supports efforts to improve the nation's preparedness and resilience against hazards, including flooding hazards. EO 13807 left in place EO 11988, titled "Floodplain Management," which was published on May 24, 1977, 42 FR 26951. This EO provides for floodplain management standards and procedures across the Executive Branch. In a March 6, 2018, Federal Register notice, published at 83 FR 9473, the Federal Emergency Management Agency (FEMA) indicated that it "will continue to seek more effective ways in its programs to assess and reduce the risk of current and future flooding and increase community resilience." In addition, states and localities continue to adopt design standards as appropriate for their circumstances to account for flood hazards.

CEQ participates in the Federal Interagency Floodplain Management Task Force (FIFM-TF) that is focused on floodplain management and on identifying best practices and promoting better coordination among the agencies. FEMA and the U.S. Army Corps of Engineers (USACE) reconvened the FIFM-TF on October 4, 2018, with the support of CEQ. This task force includes the following members: FEMA; USACE; Department of Agriculture; Department of Commerce; Department of Defense; Department of Energy; Department of Housing and Urban Development; Department of the Interior; Department of Transportation; Environmental Protection Agency; General Services Administration; Tennessee Valley Authority; CEQ (advisor); and Office of Management and Budget (advisor).

- b. Besides participating in interagency task forces, what real actions has CEQ taken under your leadership to make communities more resilient from climate risks?

Answer: CEQ's focus has been working through the FIFM-TF to examine best practices for incorporating flood mitigation standards into grant and Federal construction programs and to improve coordination among agencies, recognizing that agencies make investments in different types of infrastructure. Specifically, the FIFM-TF is working to improve state and local capabilities to set zoning and building standards to address floodplain management in order to reduce flood losses; reviewing the Unified National Program for Floodplain Management; and coordinating with relevant Federal agencies that have programs to assist urban areas with flood mitigation.

CEQ also continues to work with Federal agencies to implement the OFD policy, to ensure timely and efficient permitting to develop more modern and resilient infrastructure in communities. The OFD policy seeks to promote early and effective coordination in order to ensure that agencies develop analyses that are easily understandable and inform both the decision maker and public while ensuring compliance with NEPA and other relevant statutes. It sets a two-year goal for environmental reviews for major infrastructure projects.

CEQ is also working pursuant to Section 429 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, which directed the President and his agencies to develop a more expedited Unified Federal Review (UFR) process for environmental and historic preservation reviews for disaster recovery projects. CEQ is a member of the UFR Steering Committee, and supports this work to help improve the project review process for communities recovering from disasters.

13. During the hearing, I asked you directly “yes” or “no” if you question the conclusions in the recently issued Fourth National Climate Assessment and GAO reports that state our economy is at risk if we do not take climate actions. In the hearing, you did not provide a direct answer, so I will ask you again.

- a. Do you question the conclusions in the recently issued Fourth National Climate Assessment and GAO High Risk Report that state our economy is at risk if we do not take climate actions? If so, why? If not, why not?

**Answer:** Assessing potential risks relating to extreme weather events or climate-related impacts over many decades involves complex data, modeling, assumptions and projections, including with regard to future economic growth and technological advances. To address potential risks, it is important to pursue technology and innovation and to improve our ability to model and forecast the weather and make projections with respect to the future of the climate system. It is also important to improve our preparedness and planning and to advance the development of modern and resilient infrastructure while ensuring environmental protection.

- b. Have you or anyone in CEQ been in contact with William Happer on any issue related to climate change? If so, please provide the dates of those meetings and the issues that were discussed. If so, please provide the dates of those meetings, the issues that were discussed, the names of all people present at relevant meetings or conversations, all those who authored or received relevant documents (such as emails or letters), and all those who made or received relevant telephone calls. Please also provide me copies of all documents evidencing or regarding these communications.

**Answer:** In my role as Chairman of the CEQ, I am in contact with a variety of components and officials within the Executive Office of the President (EOP), including the National Security Council and Dr. William Happer. The substance of these meetings involve pre-decisional policy discussions. In the course of carrying out their duties, CEQ staff may also be in contact with agencies or components of the EOP, including the NSC, as part of the interagency review process.

- c. Have you or anyone in CEQ been in contact any other Administration officials about any counter-messaging campaign against the National Climate Assessment? If so, please provide the dates of those meetings, the issues that were discussed, the names of all people present at relevant meetings or conversations, all those who authored or received relevant documents (such as emails or letters), and all those who made or received relevant telephone calls. Please also provide me copies of all documents evidencing or regarding these communications.

**Answer:** As part of the interagency process, the EOP components and agencies coordinate on the development and release of various reports and documents. Volume I of the Fourth National Climate Assessment (NCA4) was released November 3, 2017, and Volume II was released November 23, 2018, by the United States Global Change Research Program (USGCRP). In my role, at that time as Chief of Staff of CEQ, I was in contact with a variety of officials within the EOP and Federal agencies on interagency deliberative matters. In the course of their duties, CEQ staff also engage with components of the EOP and Federal agencies on issues.

14. Do you agree with the American Lung Association, which has concluded that the peer reviewed research is clear that “even low levels of particles can be deadly.”<sup>2</sup> even levels lower than set National Ambient Air Quality Standards? If so, please explain why and if not, why not?

**Answer:** Particulate Matter (PM) is a criteria air pollutant that can cause health problems, including lung and heart ailments. In accordance with the Clean Air Act, the EPA sets standards for PM levels, and periodically updates those standards as appropriate. Any determination by the EPA with regard to PM standards comes after an extensive review of scientific and technical materials, and after receiving and reviewing public comments on the issue. CEQ supports the EPA’s efforts to monitor and review PM levels to ensure protection of human health and the environment.

15. As a form of transparency and government accountability, the Freedom of Information Act (FOIA) provides the public with the right to request access to federal agency documents. The federal agency is to disclose the requested information unless it expressly falls within a statutory exemption. FOIA’s “basic objective” is “the fuller and faster release of information.” *Oglesby v. Department of Army*, 920 F.2d 57, 64 n.8 (D.C. Cir. 1990). However, in the past CEQ has been less than adequate in responding to FOIA requests from concerned citizens. Would you please answer the following questions related to CEQ’s FOIA response process:

- a. How many staff do you have designated to respond to FOIA requests? Is that their full time job/sole responsibility? How many work hours are devoted to responding to FOIA requests per week on average?

**Answer:** While CEQ is one of the smallest components in the EOP, the agency currently employs two attorneys whose core duties are FOIA, one contractor who works solely on FOIA, as well as two additional attorneys, including the Chief FOIA Officer, who work on a variety of matters, including FOIA. CEQ employees and contractors devote approximately 130 hours per week responding to FOIA requests.

At the end of Fiscal Year 2016, CEQ had a FOIA backlog of 67 requests from the previous Administration. Since January 2017, CEQ has experienced a substantial increase in the number of FOIA requests it receives. During Fiscal Year 2017, CEQ processed 216 FOIA requests, more than the previous three fiscal years combined, and processed 156 requests in Fiscal Year 2018. To address the increased number of requests, CEQ hired additional FOIA staff.

- b. What levels of review are involved in FOIA responses? Is there a separate White House review?

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<sup>2</sup> American Lung Association, *Particle Pollution*, <https://www.lung.org/our-initiatives/healthy-air/outdoor/air-pollution/particle-pollution.html>, (May 2019).

Answer: FOIA requests are processed by CEQ's FOIA Public Liaison. After a search for records is conducted, the records are reviewed for responsiveness. Pursuant to FOIA, CEQ considers whether exemptions such as deliberative process or personal privacy should be considered before records are transmitted to the requester.

Following the longstanding practice of the Executive Branch, if CEQ determines that another Federal agency has equities in the records being requested, CEQ generally routes those records to the relevant agency for a consultation or referral. Similarly, if CEQ records contain White House equities, CEQ follows the longstanding practice cited in the April 15, 2009 memorandum written by Gregory Craig, Counsel to the President, titled *Memorandum for All Executive Department and Agency General Counsels*. The memorandum serves as a reminder that executive agencies should consult with the White House Counsel's Office on all requests for documents that may involve White House equities.

c. What is CEQ's average response time to a FOIA request?

Answer: As stated in CEQ's *2019 Chief FOIA Officer Report to the Attorney General*, [<https://www.whitehouse.gov/wp-content/uploads/2017/11/FINAL-CEQ-2019-Chief-FOIA-Officer-Report.pdf>]. CEQ assigns each FOIA request as simple or complex, and adjudicates requests for expedited processing. CEQ strives to expeditiously respond to all FOIA requesters. The average number of days that CEQ reported for adjudicating requests for expedited processing for Fiscal Year 2018 was 8.56. During Fiscal Year 2018, the average number of days to process simple requests was 30.4 days. In Fiscal Year 2018, 59.62 percent of requests processed were adjudicated as "simple requests."

d. Currently, how many FOIA requests are pending before CEQ?

Answer: As of June 17, 2019, CEQ has 59 pending FOIA requests.

e. Currently, how many litigation cases are pending over FOIA requests with CEQ?

Answer: As a June 17, 2019, CEQ is party to 4 FOIA litigation cases.

f. Based on your responses in the previous questions and your knowledge of CEQ's FOIA process, can CEQ improve its FOIA process? If yes, please explain how so?

Answer: As stated in CEQ's *2019 Chief FOIA Officer Report to the Attorney General*, CEQ began utilizing new e-discovery software, Ringtail, to search and review documents. CEQ FOIA professionals regularly work with the EOP component that provides technological infrastructure and services to CEQ to ensure that the software's capabilities are being fully utilized. The implementation of Ringtail has made processing requests more efficient by streamlining the search process and reducing the amount of time it takes to perform initial searches of documents. In addition, CEQ regularly reviews its FOIA process to identify ways to further improve its efficiency and effectiveness.

**Senator Cardin:**

16. The “One Federal Decision” policy is currently being implemented through Memoranda of Understanding. Please describe what the legal effect of codifying this approach would be, and whether it could result in greater litigation risk for reviews produced in two years.

**Answer:** The One Federal Decision (OFD) policy seeks to promote early and effective coordination in order to ensure that agencies develop analyses that inform both the decision maker and the public. It sets a two-year goal for completing environmental reviews for major infrastructure projects. The OFD policy does not change the requirements for agencies to comply with the National Environmental Policy Act (NEPA) and other relevant statutes.

The OFD policy complements prior legislative statutes and administration efforts. In recent years, Congress has examined issues related to the implementation of NEPA, and has passed legislation seeking to streamline environmental reviews in order to reduce project and permitting delays. This legislation includes Title 41 of the Fixing America’s Surface Transportation Act (FAST-41), Pub. L. No. 114-94; the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. No. 112-141; and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Pub. L. No. 109-59 (SAFETEA-LU). Prior administrations have also identified the need for improvements to the review and permitting process, including in a 2013 Presidential Memorandum titled “Modernizing Federal Infrastructure Review and Permitting Regulations, Policies and Procedures.”

With respect to the time for completing environmental reviews of major infrastructure projects, CEQ has previously issued guidance providing that the time required to complete the entire environmental impact statement (EIS) process under CEQ’s regulations should not exceed one year, even for large complex energy projects. In particular, CEQ in its *Forty Most Asked Questions Concerning CEQ’s National Environmental Policy Act Regulations* memorandum issued in 1981 and amended in 1986 states: “The Council has advised agencies that under the new NEPA regulations even large complex energy projects would require only about 12 months for the completion of the entire EIS process.”

17. Have you received any comment or feedback from federal agencies that there is a need for increased resources, as well as training and personnel, to facilitate timelier implementation of the National Environmental Policy Act (NEPA)? Please describe if so.

**Answer:** One of CEQ’s core responsibilities is to oversee the implementation of NEPA by Federal agencies. CEQ’s NEPA implementing regulations direct agencies to ensure that they have the capability to implement NEPA, and I believe Federal agencies have sufficient resources. To more effectively allocate their resources and better coordinate environmental reviews, CEQ continues to work with agencies to implement the OFD policy. CEQ also conducts quarterly NEPA Contacts meetings to consult with staff across

**Federal agencies regarding issues relating to implementation of NEPA and periodic training for Federal agency NEPA practitioners.**

18. The revoked Executive Order 13693, "Preparing the United States for the Impacts of Climate Change" and Executive Order 13693, "Planning for Federal Sustainability in the Next Decade" were intended to make federal operations more sustainable, save taxpayer money, and improve cost effectiveness while reducing compliance obstacles of overlapping statutory requirements. Is the CEQ considering any changes, either through guidance or regulatory rulemaking that will impact how federal agencies consider both the climate impacts of federal actions and impacts of climate change on federal actions?

**Answer:** CEQ has sent draft guidance to the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) for interagency review relating to agency consideration of greenhouse gas (GHG) emissions when conducting NEPA analyses. On March 28, 2017, President Trump issued Executive Order 13783, which directed CEQ to rescind prior guidance issued in August of 2016 relating to consideration of GHG emissions under NEPA. CEQ withdrew this final guidance for further consideration on April 5, 2017. Following completion of the pending interagency review, CEQ intends to publish the draft guidance in the Federal Register and request public comments, which will be available for the public to access on [regulations.gov](https://www.regulations.gov).

19. Please describe the CEQ's participation in interagency discussions on ratification of the Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer.

**Answer:** CEQ routinely participates in deliberative interagency discussions on various issues with components within the Executive Office of the President, and Federal agencies. There is currently an ongoing deliberative interagency process related to this matter, led by the National Security Council (NSC). The potential submission of an amendment to the Senate for ratification is a decision that would be made by the President.

20. Please describe the current status of regulations implementing Title 41 of the Fixing America's Surface Transportation (FAST) Act to expedite the permitting process for major infrastructure projects while improving environmental and community outcomes.

**Answer:** FAST-41 created a new authority to establish a fee structure to reimburse reasonable costs incurred in implementing certain requirements and authorities including the costs to agencies and the costs of operating the Permitting Council. On September 4, 2018, the Permitting Council, in conjunction with the General Services Administration, published a draft notice of proposed rulemaking (NPRM) in the Federal Register pertaining to "Fees for Governance, Oversight, and Processing of Environmental Reviews and Authorizations by the Federal Permitting Improvement Steering Council." The comment period closed on November 5, 2018. This NPRM proposes to establish an initiation fee for project sponsors to reimburse the Federal Permitting Improvement Steering Council—Office of the Executive Director (FPISC-OED) for reasonable costs to implement certain requirements and authorities required under FAST-41 and costs of operating FPISC-OED.

**Senator Markey:**

21. In the hearing, you committed to requesting public comment on the proposed draft climate guidance. Will you commit to holding field hearings on the draft guidance, as well?

**Answer:** As part of the consideration of draft greenhouse gas (GHG) guidance, CEQ undertook the interagency review process through the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA), and also participated in the requested meetings with stakeholders conducted by OIRA pursuant to EO 12866. These meeting logs are available to the public at [reginfo.gov](https://www.reginfo.gov). CEQ does not intend to hold public hearings on the draft guidance. However, CEQ intends to publish the draft guidance in the Federal Register and request public comments, which will be available for the public to access on [regulations.gov](https://www.regulations.gov).

22. The National Environmental Policy Act is particularly important to low-income, rural, and minority communities, who may not have other opportunities to engage with infrastructure projects that could affect the health and safety of their communities. In the hearing, you said that the Council on Environmental Quality "followed the OIRA process and undertook outreach consistent with OIRA's policies and directives" with regard to outreach to communities that speak Spanish or other non-English languages.

- a. Please provide detail on how that outreach and process were conducted.

**Answer:** Public participation and engagement in the rulemaking process is a priority for CEQ. In connection with review of its NEPA implementing regulations, CEQ engaged in significant public outreach beyond what is required by the rulemaking process. This included issuance of an Advance Notice of Proposed Rulemaking (ANPRM) on June 20, 2018, which while not required as part of the rulemaking process, provided an opportunity for comment by the public on a wide range of topics relating to CEQ's NEPA implementing regulations. CEQ staff developed the ANPRM and it was subject to OIRA interagency review pursuant to EO 12866. As part of the interagency review process, CEQ staff also met with various stakeholders. These meeting logs are available to the public on [reginfo.gov](https://www.reginfo.gov).

In conducting public outreach, CEQ also distributed the ANPRM to a wide range of stakeholders, including to CEQ's stakeholder distribution list, which includes points of contact at over 250 environmental organizations, academic institutions, trade associations, and other non-governmental organizations. CEQ also posted the ANPRM on its NEPA website at <https://ceq.doc.gov/laws-regulations/regulations.html>.

In response to requests from the public, CEQ also extended the comment period for the ANPRM from July 20, 2018, to August 20, 2018, and accepted comments submitted to [regulations.gov](https://www.regulations.gov) as well as comments by regular mail. CEQ received over 12,500 comments, including from organizations representing minority and low-income communities.



- b. Please describe any other steps that the Council on Environmental Quality is taking to ensure that NEPA guidance is accessible to and inclusive of the concerns of frontline communities. If there is none, please explain why not.

**Answer:** CEQ makes all of its guidance available on its NEPA website at <https://ceq.doe.gov/guidance/guidance.html>. In addition to the public outreach efforts described above, last year CEQ fully utilized [regulations.gov](https://www.regulations.gov) in order to ensure that all comments submitted would be publicly available.

23. Do you agree that oil and gas leases should be required to undergo an Environmental Impact Statement or an Environmental Assessment? If not, why not? If so, do you agree that both processes should include public notice and an opportunity to comment?

**Answer:** Under NEPA, agencies are required to prepare a detailed statement for proposed major Federal actions significantly affecting the quality of the human environment. In carrying out their NEPA responsibilities, agencies use their expertise and experience to decide how and to what degree to analyze effects of a proposed action, including with regard to whether to prepare an environmental assessment (EA) or environmental impact statement (EIS). CEQ's regulations provide for public notice and an opportunity to comment where an agency has determined it is appropriate to prepare an EIS. Also, an agency's implementing procedures may provide additional opportunities for public comment during the NEPA process.

24. President Obama's Executive Order 13547, "Stewardship of the Ocean, Our Coasts, and the Great Lakes" directed executive agencies to develop coastal and marine spatial plans to improve local decision making and mitigate multi-stakeholder conflicts. President Trump replaced this Executive Order with Executive Order 13840, titled "Ocean Policy to Advance the Economic, Security, and Environmental Interests of the United States" and encouraged the facilitation and coordination of ocean science and ocean stakeholders. The Northeast Regional Data Portal has been very useful for fishermen to try to minimize conflicts between their fishing grounds and the siting of offshore wind turbines. It is important that the data portals that are helping minimize ocean user conflicts continue to be supported.

- a. How is the Ocean Policy Committee currently supporting regional data portals and minimizing multi-ocean stakeholder conflicts?

**Answer:** To carry out its work pursuant to Executive Order 13840, the Ocean Policy Committee (OPC) established an Ocean Resource Management (ORM) Subcommittee to address data and information needs and other ocean-related matters that may require interagency or intergovernmental coordination. The OPC tasked the ORM Subcommittee with developing and implementing a plan to identify and publish Federal geospatial data that address regionally identified data needs.

To support and expand public access to Federal ocean data pursuant to Executive Order 13840, the National Oceanic and Atmospheric Administration (NOAA) and the Bureau of Ocean Energy Management (BOEM) manage and maintain the Marine Cadastre, a central resource for visualizing and sharing authoritative ocean data used for conflict avoidance, project siting, permitting, project planning, outreach, and impact assessments. In addition, the Marine Cadastre provides an efficient way for regional ocean partnerships to acquire and customize Federal data for use by regional stakeholders through regional ocean data portals.

- b. How is CEQ currently supporting federal data contributions to the regional ocean data portals?

**Answer:** As stated in the previous answer, the OPC tasked the ORM Subcommittee with developing and implementing a plan to identify and publish Federal geospatial data that address regionally identified data needs. To help inform ORM Subcommittee's work, BOEM and NOAA completed Phase 1 of a regional data platform study to understand and document what Federally sourced geospatial data are needed to help states and regional organizations address pressing ocean and coastal management decisions. It focuses on making data more easily accessible and/or provided in a way that meets the needs of the ocean and coastal management community. The Federal Data Task Report produced in Phase 1 is publicly available at <https://marinecadastre.gov/scopingstudy/>. This report identifies the top ten regional data needs and includes a ranked table of the complete list of data priorities showing which regions identified them. The report also provides a ranked table of the priority coastal and ocean management issues that drive the need for specific data, showing which regions identified them. Phase 2 of this study is designed to directly assess the infrastructure needs of the regional data portals.

- c. Can you assure that this data will continue to be publicly available?

**Answer:** An important function of the OPC, as directed in Section 5(c) of the Executive Order, is to "coordinate the timely public release of unclassified data and other information related to the ocean, coasts, and Great Lakes that agencies collect, and support the common information management systems, such as the Marine Cadastre, that organize and disseminate this information." In order to carry out this action, the OPC directed the ORM Subcommittee to streamline and speed the release of unclassified Federally collected marine geospatial data and make it publically available.

Additionally, the National Oceanic and Atmospheric Administration's budget for Fiscal Year 2020 requests \$4 million to support the regional data portals and the data capacity of the Regional Ocean Partnerships, reflecting its commitment to the regions and their access to data.

- d. Please include examples of actions the Ocean Policy Committee has already taken to address these questions.

Answer: The Data Working Group, a body established by the ORM Subcommittee to carry out data-related tasks, is linking available departmental and agency data sets that are responsive to regional needs and developing an implementation plan to release additional geospatial data sets and derived products. The Data Working Group is gathering information about the key types of unclassified marine and coastal geospatial information held by various Federal agencies that are not currently available to Marine Cadastre and identifying the existing barriers to dissemination and amount of effort required to make this data publicly available. Pursuant to the ORM Subcommittee Workplan, the implementation plan for the prioritization and release of new datasets is anticipated to be completed in July 2019, and implementation will begin in FY 2020.

Senator BARRASSO. Well, thanks so much for that very thoughtful testimony. We appreciate you being here today.

Last summer, CEQ issued an advanced notice of proposed rule-making on the potential revisions to its regulations under NEPA. These NEPA regulations haven't been updated in decades, so I hope you are considering modernizing the NEPA regulations to help accelerate infrastructure projects, to improve environmental reviews, and to streamline permitting processes.

Can you please discuss and share with us some of the themes and concerns that have emerged from your advanced notice?

Ms. NEUMAYR. Thank you very much for the question. Yes, we did issue an advanced notice and did receive a large number of comments. The comments came from a range of different stakeholders, but there were some common themes that were raised. There were comments suggesting revisions to improve the coordination between Federal agencies so that we could have a more timely process, including ensuring that processes were conducted in a concurrent fashion.

There were also comments on clarifications to the NEPA process and NEPA documentation that may be required, and to the levels of review that may be required under NEPA. In addition, there were comments on the use of current technologies that were not in existence at the time that NEPA was issued and encouragement of use of current technologies to increase public participation in the process.

So we have received a wide range of comments, and we are in the process of considering those comments.

Senator BARRASSO. You know, an inefficient permitting process can lead to expensive delays, harmful delays for important infrastructure projects. How much of a difference is it going to make if we can improve the permitting process through the reforms that you are contemplating, and what changes to the law would help you achieve these goals?

Ms. NEUMAYR. Well, as I said, the process can be a very lengthy process, and the report that we issued at the end of last year reflected that the timeframes can be many years for many important projects that are important to communities around the country. Delays in the permitting process can delay the development of very important and needed infrastructure, including projects that will benefit the environment.

To the extent that we can reduce delays without compromising environmental protection, this will be helpful to the funding of projects and will ensure that both Federal dollars and private sector dollars go further. But delays can result in significant costs, so it is important to try to address and reduce unnecessary delays.

Senator BARRASSO. I am so glad to see that you and the Administration have taken meaningful steps to improve the environmental review process and especially glad to see that the Administration set this 2-year goal for completing environmental reviews with these projects as part of the One Federal Decision policy.

Are Federal agencies on track to meet that 2-year goal?

Ms. NEUMAYR. Yes. As I mentioned, we have a Memorandum of Understanding in place with the agencies, and agencies have been working in a very collaborative way to identify projects to be proc-

essed under the One Federal Decision policy and to develop schedules that do meet the 2-year goal and are schedules that include detailed milestones and are developed through extensive coordination between all of the relevant agencies. To the extent appropriate, we have encouraged agencies to work with their State counterparts, as well, to ensure a schedule that includes all of the relevant milestones and approvals that are involved.

Senator BARRASSO. You know, Wyoming produces about 40 percent of the Nation's coal, so earlier this year a Federal District Court based in Washington, DC, froze coal leasing and drill permits on over 300,000 acres of Federal land in Wyoming. The court found that the Bureau of Land Management didn't adequately consider greenhouse gas emissions under NEPA.

In its decision, the court offered very little guidance on what the agency needs to do in order to analyze greenhouse gas emissions to a court's satisfaction. Judicial decisions like this create troubling uncertainty for many, and certainly for projects in Wyoming and in other States.

Is clarity in this area of the law needed, and can direction from CEQ help?

Ms. NEUMAYR. Well, litigation is an issue and we are aware of the court's decision in that case. It is a matter in litigation. What I would say generally is that ensuring coal leasing and other expanded energy production on Federal lands consistent with environmental protections is a priority for the Administration, and we do believe that it is important to assist agencies in completing and carrying out their NEPA responsibilities.

Senator BARRASSO. Thank you.

Senator Carper.

Senator CARPER. Again, thanks so much for joining us today. It is good to see you. We appreciate your testimony and your responses to our questions.

Based on a prior response that you provided to my staff during the course of your confirmation, I believe you clarified that the majority of highway projects fall within categorical exclusions and did not constitute a significant burden. However, that still understates the fact that 90 percent—96 percent, actually—of highway projects are categorically excluded from NEPA, as I said earlier.

My question is this: Do you agree that the vast majority of projects, as high as 96 percent, NEPA approvals do not delay the issuance of permits?

Ms. NEUMAYR. Yes, Senator, I do agree. That 96 percent figure is an estimate that has been developed by GAO, and it does indicate and confirm that many of the projects approved by the Federal Highway Administration are categorically excluded. These are projects that may include maintenance, landscaping, repaving, bicycle lanes, projects of that nature.

For significant highway expansions or new corridors or bypasses, frequently, typically an environmental assessment or environmental impact will be required, and that is a process that can take multiple years.

Senator CARPER. All right, thank you.

During your confirmation, we discussed CEQ's role in making our infrastructure more resilient for our new climate reality and for

protecting American communities. You promised to work with me and others on this issue. However, since confirmed, there has been mass flooding in the Midwest. It has caused billions of dollars in economic damage. They are still trying to get their lives back together, as you know. They face another hurricane season without any action from CEQ. And I mentioned on the Delmarva Peninsula the amount of rain that we continue to receive has just pretty much delayed the planting season again this year as a year ago.

At the same time, Federal agencies continue to report dire predictions on threats of climate change. GAO recently reissued its high risk list. You know they do it every 2 years, at the beginning of a new Congress, and they reported this Administration has walked away from the growing threat of climate change, and I think we are going to be poorer for it.

Specifically, GAO found this Administration's actions, such as revoking the last Administration's Federal Flood Risk Management Standard, "potentially increases the Federal Government's fiscal exposure to climate change."

Again, I want to know what you are doing personally to protect us from the threats of climate change. What are you doing personally to protect us?

Ms. NEUMAYR. Well, CEQ has, as we have been discussing, seeking to advance the development of modern and resilient infrastructure, including for major infrastructure projects, through the implementation of the Executive Order on infrastructure and the One Federal Decision policy, and we think that that is very important, including for significant resiliency projects and the development of more modern and resilient infrastructure.

In addition, CEQ is working pursuant to the Stafford Act, which was amended in 2013 to direct the President and his agencies to develop a more expedited and unified Federal process for environmental reviews and historic preservation reviews for disaster recovery projects. CEQ is a member of the Steering Committee that is working to improve that process, and we have been active in that process, and we expect to continue to be very active in that regard.

In addition, CEQ participates in a task force that is focused on floodplain management and on incorporating best practices and better coordination among the agencies following disasters so that we can make good funding and construction decisions and build more resilient infrastructure.

Senator CARPER. Will the Federal Flood Risk Management Standard be replaced, and if so, when?

Ms. NEUMAYR. Our focus has been through the task force on incorporating best practices and improving the coordination between agencies, recognizing that different agencies make different investments in different types of infrastructure.

Senator CARPER. All right, thanks.

My time has expired. I hope we will have a second round.

Thank you.

Senator INHOFE [presiding]. Thank you, Senator Carper.

I have two quick questions I want to get on the record, then I am going to leave immediately; I have a timing problem here.

During the WRDA bill in 2016, I authored and successfully included a provision, the coal ash. In fact, my State of Oklahoma was

the first State to actually use this. It has been very successful. There is nothing unusual about the States taking over what the Federal Government has done in the past; we have done it under the Clean Water Act, we have done it under the Clean Air Act.

I would just like to have a brief answer as to, in your view, how the States' ability to take these things over has been working.

Ms. NEUMAYR. Thank you for the question. The Administration strongly supports Federal and State cooperation in the context of the One Federal Decision policy. We have directed Federal agencies to work with States to develop more timely environmental review processes, and we have also issued guidance to States with respect to surface transportation projects where States have assumed NEPA responsibilities, and we think that that is an approach that has been a good approach and we look forward to supporting States as they move forward.

Senator INHOFE. I appreciate that very much.

You already answered my second question, which was going to be on the One Federal Decision, so I appreciate that very much and yield back my time.

Thank you.

Senator BARRASSO [presiding]. Senator Whitehouse.

Senator WHITEHOUSE. Thank you, Chairman.

Ms. Neumayr, let me begin by thanking you and CEQ for the work that you have done to facilitate our bipartisan work in the Senate on oceans issues. Chairman Murkowski and I have been working on, as you know, the Blue Globe Act, and you and CEQ have been very helpful in terms of getting agency connections and buy-in and ideas and so forth.

I think this is an area where we have had a lot of bipartisan progress dating from the Port States Measures bill and pirate fishing work to our marine plastics work.

I see Senator Sullivan here. We have had such good time doing the Save Our Seas bill that we jumped right back into doing Save our Seas 2.0 to try to do even better.

We just discovered that the deepest dive to the bottom of the Marianas Trench discovered a plastic bag floating, whatever it is, 30,000 feet down, so it is really time to clean that mess up, and we are looking forward to working on that, and again, your support has been very helpful. The Blue Globe Act with Senator Murkowski is on ocean data and monitoring and awareness, so a big thank you there, if I could start with that.

I have provided to my colleagues in the Senate an increasing number of warnings that are coming out about what climate change portends for economic collapse if it is not sensibly addressed. The Bank of England says, and I quote: "Climate change will threaten financial resilience and longer term prosperity" and also projects this as a systemic risk to the work economy.

Are you aware of those warnings?

Ms. NEUMAYR. [Nodding.]

Senator WHITEHOUSE. Yes. Thirty-four Central Bank presidents, including England, France, Germany, China, and our Canadian and Mexican neighbors, estimate losses ranging from \$1 trillion to \$4 trillion in the energy sector and up to \$20 trillion when looking at the economy more broadly, and point out that the more sophisti-

cated study suggest average global incomes may be reduced by up to a quarter by the end of the century if this isn't addressed.

Are you aware of that warning?

Ms. NEUMAYR. I am not sure if I am aware of that specific warning.

Senator WHITEHOUSE. OK, we will pass it along.

An economic study from Cambridge University has forecast that the U.S. economy could contract by 5 percent, resulting in \$3 trillion in losses and millions of lost jobs.

Are you aware of that warning?

Ms. NEUMAYR. [Nodding.]

Senator WHITEHOUSE. Yes. OK.

The Fourth National Climate Assessment done by the Trump administration says that annual losses in some economic sectors are projected to reach hundreds of billions of dollars by the end of the century. I assume you are aware of that.

Ms. NEUMAYR. Yes.

Senator WHITEHOUSE. Standard & Poor's has warned that the higher we allow the temperature to get from global warming, the more damaging climate change will be, and in a non-linear way.

You are aware of that warning?

Ms. NEUMAYR. Generally.

Senator WHITEHOUSE. Freddie Mac says rising sea levels and spreading floodplains appear likely to destroy billions of dollars in property and to displace millions of people. The economic losses are likely to be greater in total than those experienced in the housing crisis and Great Recession.

Are you aware of that Freddie Mac warning?

Ms. NEUMAYR. I am aware that concerns have been raised.

Senator WHITEHOUSE. The Union of Concerned Scientists warns that the consequences of rising seas will strain many coastal real estate markets abruptly or gradually, but some eventually to the point of collapse.

Are you familiar with that warning as well?

Ms. NEUMAYR. Yes.

Senator WHITEHOUSE. The insurance industry trade publication Risk in Insurance has written, "Continually rising seas will damage coastal residential and commercial property values to the point that property owners will flee those markets in droves, precipitating a mortgage value collapse that could equal or exceed the mortgage crisis that rocked the global economy in 2008," which many of us lived through in the Senate.

Are you aware of that warning?

Ms. NEUMAYR. I am aware, generally aware that concerns have been raised.

Senator WHITEHOUSE. Are you aware of Moody's, the municipal bond rating agency, decision to start rating coastal municipalities' bonds based on the risk of sea level rise, storm damage, and climate change?

Ms. NEUMAYR. Yes.

Senator WHITEHOUSE. The First Street Foundation has been going up from Florida, where it did peer reviewed research out the Gulf Coast and up the northeast coast. It has been through Rhode Island. They have found that along the east coast we have already



lost more than \$15 billion in value since 2005 because of sea level rise.

Are you aware of First Street's work?

Ms. NEUMAYR. Not specifically.

Senator WHITEHOUSE. OK. I will get all this to you.

And then there are a number of economics publications that warn of systemic risk to the world economy based on the threat of a carbon asset bubble collapse.

Are you aware of those publications and that concern?

Ms. NEUMAYR. Generally aware of that concern.

Senator WHITEHOUSE. What is a carbon asset bubble crash, just so I know we are talking about the same terms?

Ms. NEUMAYR. I had the opportunity to meet with you prior to my confirmation, and we talked about that and you raised concerns about the potential impacts on real estate.

Senator WHITEHOUSE. Sorry, I am just trying to get a definition of what the carbon asset bubble crash means. What does that term mean to you?

Senator BARRASSO. The Senator's time has expired, but if you want to finish on this question.

Senator WHITEHOUSE. That is the last. I am kind of re-asking it to try to get an answer. Thanks.

Ms. NEUMAYR. My recollection is we discussed in your office that that is a concern raised in connection with potential impacts on real estate located in coastal communities.

Senator WHITEHOUSE. Well, I will follow up on a second round, because that is a different thing.

Go ahead. Thanks. Sorry to take extra time.

Senator BARRASSO. Senator Sullivan.

Senator SULLIVAN. Thank you, Mr. Chairman.

Welcome again, Ms. Neumayr. Good to see you.

I want to begin by just commenting on what Senator Whitehouse mentioned on the Save Our Seas Act. As you know, when we had our bill signing in the Oval Office, Senator Whitehouse and I, the President was very enthusiastic about that legislation. I think it is a very important area. Bipartisan cooperation not just in the Congress, but with the Trump administration and so many countries across the globe. Environmental groups, industry, they all want to work on this.

We are going to be introducing, as Senator Whitehouse mentioned, a Save Our Seas Act 2.0. I think we have sent it over to the White House to get a look, but certainly would be excited about your support. I know the President actually has been very supportive of this legislation.

Can you just mention what you have been doing in this area of ocean pollution and particularly the problems we have with plastics? It is actually a solvable problem. The estimates are five countries, 10 rivers in Asia, constitute over 80 percent of all the plastic waste in the world's ocean, much of which ends up on the shores of my great State. But if you have any comment on that, I would welcome it and your support.

Ms. NEUMAYR. Yes. Well, the issue of marine debris has been a priority for the Administration, and as you mentioned, the President signed legislation. In addition, the agencies have been work-

ing to address these issues. NOAA and EPA and the Department of State and other agencies work closely on these issues, I think have recently submitted a support to Congress on marine debris related issues.

CEQ, in particular, has been focused on the marine debris issue in the context of the Ocean Policy Committee that was established last year, and marine debris has been a topic that the Committee is considering.

Senator SULLIVAN. Well, we want to continue to work with you. As you mentioned, the President not only signed legislation; he had a wonderful meeting with Senator Whitehouse in the Oval Office that I thought went really great, so we will just make sure we are trying to do that again.

Senator WHITEHOUSE. Thank you, Senator Sullivan.

Senator SULLIVAN. You are good to go with that?

Let me go to another topic where I am hoping that we can get bipartisan support, and this is an issue of the time it takes to permit infrastructure projects. Unfortunately, NEPA, which is a very important piece of legislation, has turned into kind of a delay tool for certain groups that don't want to build anything. Keystone Pipeline, that took 8 years and counting to permit. As you know, there are projects, really important projects, whether the Gross Reservoir in Colorado, 14 years to permit that. The Kensington Gold Mine in Alaska, almost 20 years to permit that. On average, it takes 9 to 19 years to permit a Federal highway, permit and plan a Federal highway in America. Nine to 19 years.

Nobody wants this, except for some extreme radical special interest groups that don't want any infrastructure. This really, really, really hurts American workers, the men and women who build things in our great Nation.

I am going to be introducing, this week, the Rebuild America Now Act. I am hoping to get some of my Democratic colleagues to join me in it. I have a number of Republican cosponsors. Talked to the President extensively about this, including just 2 weeks ago.

Can you give us an update on the work that you are doing to help streamline NEPA? I believe that, like other countries—Canada, Australia—you can permit infrastructure projects within 2 years and still protect the environment. Unfortunately, we now have a conventional wisdom that permitting processes need to take 8, 9, 10 years. It takes 8 years, on average, to permit a bridge in America. Who is for that?

So, can you give us your thoughts on that? We want to work with you, and I certainly would appreciate the Administration's support of my Rebuild America Now Act, which looks very similar to the Executive Order the Trump administration put out on infrastructure permitting and timelines.

Ms. NEUMAYR. We do believe that it is very important that it is part of the environmental review process. It is a predictable and a timely process.

Senator SULLIVAN. Timely meaning 2 years? Can you do it?

Ms. NEUMAYR. The Administration has set a goal for major infrastructure projects, of completing those reviews in 2 years.

Senator SULLIVAN. By the way, other industrialized democracies do that regularly, correct? We are the outlier, aren't we, in terms of these 10-year permitting timelines?

Ms. NEUMAYR. Our permitting timeframes can be very lengthy. So, we have been working with agencies to help ensure that they establish a joint schedule and that that schedule is developed by the lead Federal agency in consultation with all of the relevant Federal agencies, and as appropriate, with State agencies as well. So, we have been working to ensure that agencies put in place schedules, that they have processes in place to elevate issues that might result in delays in the schedules, and that they work toward meeting the 2-year goal. So, we have been working closely with the agencies on that. In addition, we have been working with the agencies on looking at their own policies and procedures to help reduce delay.

Senator SULLIVAN. Great.

Mr. Chairman, we want to work with you and the Administration, the Ranking Member on this very important issue for the sake of America's workers and our economy and protecting the environment. I think we can do it all within 2 years, and we want to work with the Administration, importantly, on changing some elements of NEPA that have been abused over the years, and I look forward to working with you and this Committee on that.

Senator BARRASSO. Thank you, Senator Sullivan.

Senator CAPITO.

Senator CAPITO. Thank you, Mr. Chairman.

I want to thank you for being our witness.

I want to follow up on what Senator Sullivan was talking about in terms of NEPA review and time, typical experience. Several of our bills that we have tried to kind of alleviate this issue, the lengthy review process, would be having dashboards at different permitting agencies that would indicate how far along a certain permit is. What is your opinion on that, and are you seeing that used successfully in other places? If you could talk about that a little bit.

Ms. NEUMAYR. We do strongly support more transparency and accountability. In fact, under the One Federal Decision policy, project schedules are to be posted publicly, and we are currently posting them on the dashboard that is hosted by the Federal Permitting Council and the Department of Transportation so that there can be detailed schedules which are made available to the public.

In addition, we have worked with OMB, which was directed under the President's infrastructure Executive Order to develop a tracking system to help ensure that agencies do follow the One Federal Decision policy, do establish schedules and that they do have in place processes to resolve delays and to timely address any significant issues that might result in delays, and we do strongly believe that posting schedules on the dashboard is an important step.

Senator CAPITO. You can find that at the Federal Permitting—what did you call it?

Ms. NEUMAYR. Dashboard for the Federal Permitting Council.

Senator CAPITO. OK.

Ms. NEUMAYR. The projects are listed in the category titled One Federal Decision.

Senator CAPITO. When you have a disagreement, the previous Administration did a preemptive EPA veto of projects under the 404(c) of the Clean Water Act, which was very unusual because the permit had been in place for several years, and it sort of struck as a troubling precedent to me. What role does CEQ do, or how do you intervene when you have issues such as this, where EPA is overriding Corps of Engineers, when they are supposed to be generally working together? How is CEQ intervening in this, or are you?

Ms. NEUMAYR. Well, CEQ can participate in a number of ways. CEQ participates in the interagency review process, so to the extent that there is a rulemaking activity, a rulemaking, CEQ might participate in that process. In addition, CEQ does have a convening role, so where there are issues involving multiple agencies, and there is a need for resolution of issues, we can play a convening role.

Senator CAPITO. What about when that involves the State? We also have had issues, not recently, but during the last Administration, where the State, in their 401 process, had permitted certain things, and the EPA and others had come in and overridden decisions that legally lie within the State's jurisdiction? Have you seen these in your experience, and what are you all doing to address this issue?

Ms. NEUMAYR. Well, with respect to those issues, CEQ meets with a broad range of stakeholders, including States and localities that may come to CEQ to raise specific issues, so we have an opportunity to meet with a very broad range of State and local stakeholders. In addition, as appropriate, to convene meetings of the Federal agencies to seek to coordinate a resolve.

Senator CAPITO. Do you have instances where the States are coming to you, and they are asking you to intervene in these instances, or is it mostly technical assistance and those kinds of things?

Ms. NEUMAYR. Typically, stakeholders will come to talk to us about potential regulatory reforms or specific issues that they are confronting, so it can be a very wide range of issues.

Senator CAPITO. Wide range. All right. Thank you very much.

Senator BARRASSO. Senator Markey.

Senator MARKEY. Thank you, Mr. Chairman, very much.

In a 2017 Executive Order, President Trump took away Obama era Council of Environmental Quality guidance on how to include climate change in the environmental impact reviews required under the National Environmental Policy Act, but a series of court decisions have since reaffirmed the need to consider climate change and review of environmental permits, which means CEQ has to act, and we must have climate guidance.

Ms. Neumayr, it is my understanding that CEQ submitted its new guidance to the Office of Management and Budget for review in early February. Is that correct?

Ms. NEUMAYR. Yes, that is correct.

Senator MARKEY. So it has been over 3 months. When might this guidance finally be released from OMB?

Ms. NEUMAYR. Well, the guidance is subject to interagency review, and OMB leads that process. The process is not yet concluded, but we do anticipate that as soon as it is concluded we will move forward with issuance of proposed guidance for public comment.

Senator MARKEY. And when is that? When will it be concluded?

Ms. NEUMAYR. Well, that will depend on the OMB process, but we anticipate moving forward in the near future.

Senator MARKEY. In the near future. I obviously highly doubt this guidance will be stronger than what was already on the books. Climate change is an existential threat to our country, and 13 Federal agencies told us of the disastrous consequences we could face if we do not act. Of all the issues, we cannot afford to weaken our climate guidance. The American people recognize the threat of climate change and are demanding that they be heard, which leads me to my next question.

Before CEQ issued its final climate guidance in 2016, it issued two drafts for public comment. Will you commit to following precedent in issuing the guidance as a draft open to public review and comment?

Ms. NEUMAYR. Yes, we anticipate issuing the proposed draft, and we will request public comment.

Senator MARKEY. Great. That is great.

Ms. Neumayr, the National Environmental Policy Act is the magna carta of environmental policy and public engagement in this country. The Trump administration is taking steps to rewrite it so that NEPA actually stands for No Environmental Protections Allowed. In July of last year, when you came before this Committee, you refused to commit to holding even one public field hearing on the proposal to rewrite the implementing regulations for NEPA. You said, "We will consider all of our options with respect to public engagement." The option is right there. All you need to do is to respect public engagement, but that has not been what has happened.

Will you commit to holding a public hearing on this proposal in all nine EPA regions?

Ms. NEUMAYR. Well, CEQ has, as I said in my testimony earlier, we have received comments in response to a NOPR. We are considering those comments and potential revisions. We have not sent a proposal to OMB for interagency review. To the extent we do send a proposal, we would have to complete the interagency review process, and following that, to issue the proposed guidance. We do anticipate that we would hold public hearings, and we will consider all of our potential options.

Senator MARKEY. Commit to public hearings in the regions?

Ms. NEUMAYR. We anticipate holding public hearings, but no final decisions have been made with respect to that process.

Senator MARKEY. Well, again, how you define public hearings—

Ms. NEUMAYR. And no proposal has been submitted.

Senator MARKEY. We need reassurance that stakeholders in Massachusetts and other States around the country will be able to weigh in if the Administration rolls back this backbone of Federal environmental policy. NEPA is central to the pursuit of environ-

mental justice. Too often we fail to listen and engage with the communities most affected by various projects.

During your confirmation hearing, you said, “My commitment would be to make addressing environmental concerns in these communities a priority.”

Under your leadership, has the Council on Environmental Quality performed outreach in Spanish and other languages besides English to communities during the rewrite of the regulations to implement NEPA?

Ms. NEUMAYR. Public participation and public engagement is a priority for us, and we did follow the OIRA interagency review process for advanced noticed of proposed rulemaking, and we did conduct extensive outreach with respect to that.

Senator MARKEY. So, have you reached out to the Spanish speaking and other language speaking nationalities in our country?

Ms. NEUMAYR. We, I believe, followed the OIRA process and undertook outreach consistent with OIRA’s policies and directives.

Senator MARKEY. Well, again, we just have to make sure that no one is left out when it comes to weighing in, so I would just encourage you to make sure that Spanish speaking especially—but not exclusively—communities in the country are included.

Thank you, Mr. Chairman.

Senator BARRASSO. Thank you very much, Senator Markey.

We will now begin a second round of questions.

We are looking at a time when renewable energy is becoming more affordable. I was thinking about this the other day because Senator Whitehouse and I previously discussed this carbon bubble, where are the prices so high, kind of like the tulip bubble of many centuries ago, that energy prices may plummet, and that could have an impact. There is an article in *The Economist* this past week about the bidding war for Anadarko between Chevron, Occidental Petroleum. I think Warren Buffett has come up with another \$10 billion, so there is still a significant value to petroleum products, and this concept of the carbon bubble seems to imply that we are getting bid up too high and things could undercut it.

I do have, for the record, an article written in *The Wall Street Journal* that talks about the myth of the bubble, which goes on to say, “Shaping future energy and environmental policies in the energy systems for decades ahead requires informed, fact-based decisions.” It says, “Anticipating bubbles has become an important concern, but it is just as important not to base decisions on bubbles that don’t exist.”

In your specific role, I can’t imagine that this is something that enters into your thinking as you are focusing on protecting the environment, making sure the law is followed, that you get input from people. That would be different from your job as you see it, as we take a look at what potentially could happen 15 or 20 years from now.

Ms. NEUMAYR. Yes. Our priority is efficient implementation of the laws that Congress has passed.

Senator BARRASSO. Let me, at this time, turn to Senator Carper if he has additional questions, and then I think Senator Whitehouse and if any other Senators come back.

Senator Whitehouse, we can go to you while Senator Carper is in consultation here.

Senator WHITEHOUSE. Gladly, with Senator Carper's permission.

I wanted to follow up on our conversation. First of all, I would be very surprised if the Council on Environmental Quality of the White House didn't take into effect, in discharging its responsibilities, the prospect of consequences from those decisions, and the consequences from those decisions are now widely reported to include potentially three very significant economic risks; not just losing your farm to a flood, not just a localized risk, but broad economic risks, and they fall into three categories.

One is an insurance crisis that either comes from climate risk becoming uninsurable because it is so hard to quantify, and because it is so potentially damaging, in which case you lose the insurance industry, or you end up with a climate disaster that is so massive that it sort of breaks the bank of the insurance industry. This is not an incredible position to take. After Andrew, 16 insurance companies, according to the Insurance Institute, went belly up in Florida because they had not adequately predicted what was coming.

So, risk one, broadly stated, is the risk to the insurance industry from the rapid changes and increasing risks of climate change.

The second is the coastal property values risk that you mentioned, and we talked about in my office. That is what Freddie Mac is talking about. And the notion there is that coastal property values suffer very sudden collapse when the market begins to react to the dangers of rising sea levels, and particularly when that prospect begins to back into the tail end of a 30-year mortgage. So, if a bank won't issue you a 30-year mortgage on a property because it is not clear that that property won't be literally under water, and not just figuratively under water, in 30 years, that is going to really blow out the buy side of the coastal property marketplace. And if you blow out the buy side, guess what happens to sell prices? They go down very rapidly.

That is the warning that Freddie Mac and others are putting out there, and it could be as serious, according to Freddie Mac—not an environmental panic group but a very responsible housing organization—as bad as the 2008 mortgage crisis we all lived through.

The third is this business of a carbon asset bubble. And I wasn't asking you to agree or disagree whether a carbon asset bubble is going to pop and whether there is going to be a crash; I just wanted to figure out if you were familiar with the concept, with what the notion is of what would go wrong with a carbon asset bubble.

So again, without asking you to agree or disagree, are you familiar with the carbon asset bubble theory and how it would work if the theory were to come to pass?

Ms. NEUMAYR. I am familiar generally with the concerns that have been raised. We believe that it is important for us to improve our preparedness and our planning and to advance a modern and resilient infrastructure, and to advance a strong economy so that we can withstand future risks, including climate related risks. And technology and innovation is important, including improving our ability to model and forecast and make projections with respect to future events.

Senator WHITEHOUSE. And Senator Barrasso and I can agree or disagree about how real the prospect is of a carbon asset bubble, but it is at least real enough that the Bank of England, operating as the regulator of all the UK's banks and insurance companies, is warning very seriously about it. And it is serious enough that \$32 trillion worth of investment after the last cop organized itself to say we need to know a lot more about this because this is a real enough risk that we face an information deficit about quantifying it, and we need a lot better reporting out of the fossil fuel industry and related industries about what their climate financial risk is. And it is real enough that there are peer reviewed economic journal publications that not only quantify the risk but try to run it through and see who it hits the worst.

And the bad news is that in the event of a carbon asset bubble collapse, the U.S. fossil fuel and the Russian fossil fuel market perform particularly badly against lower cost producers and take a particularly hard hit, and they literally are talking about negative GDP growth, significant income reductions, and trillions of dollars in damages. So that is nothing to mess around with, and I think at least it is an idea that merits our attention, and I hope the attention of CEQ as it is evaluating what its policy should be in this area.

Thank you, Chairman.

Senator BARRASSO. Thank you very much, Senator Whitehouse.

Senator Carper.

Senator CARPER. Thanks, Mr. Chairman.

Go ahead.

Senator WHITEHOUSE. May I ask unanimous consent that a letter that I wrote on this subject?

Senator BARRASSO. Without objection.

[The referenced information was not received at time of print.]

Senator WHITEHOUSE. I am going to give this to Ms. Neumayr at the end of the hearing, but I want to put it in the record.

Senator BARRASSO. It is included. Thank you.

Senator CARPER. Mr. Chairman, I also ask unanimous consent to submit for the record an announcement I believe made this morning by 13 Fortune 500 companies and four environmental groups calling on the President and Congress to act as soon as possible on climate change.

Senator BARRASSO. Without objection.

Senator CARPER. Thank you.

[The referenced information was not received at time of print.]

Senator CARPER. If I could, I just want to read the first couple of sentences of this announcement. I won't mention all the companies, but I will mention some of them because I am proud of them. DuPont, Dow, Dominion Industry, Dominion Energy, Exelon Ford, BASF, Citi, BP, Unilever, DTE, Shell, PG&E; and the list goes on with a number of major environmental groups, too, including EDF, including The Nature Conservancy and World Resource Institute and Center for Climate and Energy Solutions.

Their announcement starts out, "It is urgent that the President and Congress put in place a long-term Federal policy as soon as possible to protect against the worst impacts of climate change. Acting sooner rather than later allows us to meet the climate chal-



allenges for the least possible cost and put the necessary investments in place in time to meet our emissions targets.” It goes on to cover five or six major points.

I welcomed the announcement this morning.

I want to come back, if I can, Ms. Neumayr, to—I don’t ask a lot of yes or no questions. This is a yes or no question; it is a pretty easy one, I think. Do you question the conclusions in the recently issued Fourth National Climate Assessment and GAO reports that the state of our economy is at risk if we do not take climate actions? Yes or no?

Ms. NEUMAYR. We agree that the climate is changing and that human activity has a role.

Senator CARPER. The conclusions of the Fourth National Climate Assessment and the GAO reports state that our economy is at risk if we do not take climate actions. Do you question those conclusions?

Ms. NEUMAYR. I agree that climate change is an issue and that human activity has a role. I also believe that the climate system is very complex and that it is important that we pursue technology and innovation to help to adapt to changing climate.

Senator CARPER. Thank you.

We have talked a little bit about my next subject that relates to what I just asked you. I remember a time when I first learned that we had an ozone layer. When I was a kid, I didn’t know that. I learned it later in life. Then I found out that we had a hole in it and the hole was getting bigger, and we were trying to figure out what was causing it, and it turned out one of the contributing factors was something called CFCs, chlorofluorocarbons. It had something to do with cooling our homes, this building, our cars, so forth. Pretty good refrigerant, pretty good coolant, but not so good for the ozone layer.

So we figured out we probably ought to stop using that, and something came along called HFCs, hydrofluorocarbons, to replace them. Much better on the ozone layer, but not so good on climate and carbon. In some ways significantly worse than carbon dioxide with respect to global warming, climate change.

So now we have these 401 products that have been developed by American companies that are OK with the ozone layer, and frankly, a whole lot better with respect to climate change.

We have been waiting for the Administration for some time to ask us to pass an amendment, the Kigali Amendment to the Montreal Protocols, and we are still waiting. This is technology developed in America by American companies worth tens of thousands of jobs, billions of dollars’ worth of economic activity for our country, ahead of the rest of the world. For the life of me, I don’t understand why the Administration has not asked us to approve it.

You and I have talked about this before. It just makes no sense. No sense. What is going on?

Ms. NEUMAYR. Well, the potential submission of an amendment to the Senate for ratification is a decision that would be made by the President. There is currently an interagency process related to this that is led by—

Senator CARPER. That has been going on for a long time. It is a slow process.

Ms. NEUMAYR. It is a process that is led by the NSC, and it is an ongoing process.

Senator CARPER. I would describe it as an unending process. In the meantime, we are ceding the advantages to others, including folks in China. We have to be smarter than that.

I want to go back to the public comment issues involving NEPA regs and public comment periods. Last June, CEQ published an advanced notice of proposed rulemaking to consider potential updates and clarifications to its NEPA implementing regs, and that ANPRM initially offered a short public comment period, as you will recall, 30 days. A number of us said that is way too short; let's have it longer. It has been extended to 60 days. My understanding is no public hearings were conducted.

As you know, the original regs and the singular amendments to those regs went through considerable deliberation both internally and by the public. I just want to ask if you would commit today to a minimum 90-day public comment period if a notice of proposed rulemaking is released.

Ms. NEUMAYR. As I said earlier, no proposal has been submitted to the Office of Management and Budget. To the extent we submit a proposal, that would be a deliberative process, and I can't speak today to what would be included in a proposal ultimately until that process is concluded.

Senator CARPER. So I guess I couldn't ask you to commit tomorrow, could I?

Ms. NEUMAYR. We do believe that it is important to receive public comment, and we look forward to, to the extent we move forward with a proposal, that we engage with the public, and we seek public comment.

Senator CARPER. All right, thank you. Well, please give that consideration. We appreciate the extension to 60 and would be very grateful for 90. Thank you.

I will have some questions for the record. Thank you for joining us today.

Senator BARRASSO. Thank you very much, Senator Carper.

Finally, last fall, the Administration appointed a permanent executive director to lead the Permitting Council, which was established in the FAST Act of 2015. I am just going to ask how CEQ is working with the Permitting Council, and would you support making this Permitting Council permanent?

Ms. NEUMAYR. Yes, thank you for the question.

Yes, CEQ does work closely with the Permitting Council. Under the legislation, the FAST Act, CEQ issued guidance relating to the Permitting Council in 2017. We have one staffer from the Permitting Council who is part-time with CEQ, and we do seek to work closely with them as they move forward with carrying out their responsibilities. We do think that Congress has, through the Permitting Council, advanced legislation that is very important because it does help to ensure a more coordinated process for very large infrastructure projects.

Senator BARRASSO. Thank you. Thank you for being here. We appreciate your testimony, your time, the work that you are doing.

As Senator Carper said, you are going to have some written questions. I think other members may as well. I know a number

of members were attending memorial services and a funeral in Indiana for former Senator Lugar, so you may be hearing from some of them.

Senator WHITEHOUSE. Mr. Chairman, can I?

Senator BARRASSO. Senator Whitehouse.

Senator WHITEHOUSE. One last odd coincidence. After my question, I flipped open my Bloomberg News feed, and if I could just take a moment and read five sentences from that feed.

"Florida's economy can be expected to 'go to hell' as lenders begin to realize many properties financed with 30-year mortgages may be either literally or figuratively under water within that time, according to Spencer Glendon of the Woods Hole Research Center. A quick comparison of Miami Beach and Charlotte bonds suggest Florida investors may be ignoring 'insane' climate risk. Either way, \$1 trillion is on the line. Companies may face \$1.2 trillion in losses globally if they delay addressing climate change during the next 15 years, according to a U.N. Environment Finance Initiative Analysis. That is also a rough estimate of what the U.S. may need to spend a year by 2050 to help avoid untold higher costs from unchecked warming."

So, I don't know if Bloomberg News was listening to me and suddenly sent this feed out, but it was——

Senator BARRASSO. Michael Bloomberg was listening to you and sent that feed.

Senator WHITEHOUSE. It certainly was an odd coincidence.

[Laughter.]

Senator BARRASSO. Thank you.

Senator WHITEHOUSE. Thank you.

Senator BARRASSO. Thank you, Senator Whitehouse.

Thank you, Senator Carper.

Thank you very much for your testimony and your time today. We very much appreciate the job you are doing.

With that, this hearing is adjourned.

[Whereupon, at 11:17 a.m. the Committee was adjourned.]

[Additional material submitted for the record follows:]

5/15/2019

Nancy Meyer and Lysle Brinker: The Myth of the Carbon Investment 'Bubble' - WSJ

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| COMMENTARY

## *The Myth of the Carbon Investment 'Bubble'*

Bad news for alarmists: Global integrated oil and gas companies since 2008 have traded at a 30% discount.

By Nancy Meyer And Lysle Brinker

Jan. 11, 2015 6:04 p.m. ET

Is there a new economic bubble—a “carbon bubble”—forming around oil, natural gas and coal investments? Proponents of the theory assert that the prices of fossil-fuel company stocks are substantially overvalued because their inventory of fossil-fuel resources cannot be brought to the surface and consumed if the world is to keep global emissions below certain carbon-dioxide thresholds. The argument, advanced by such groups as 350.org, Carbon Tracker Initiative and Go Fossil Free, assumes that more-stringent climate policies will render many fossil-fuel reserves “unburnable.” In coming decades these reserves are at risk of being “stranded,” leaving shareholders empty-handed.



GETTY IMAGES

Buzzwords about “stranded” and unburnable assets are making some investors anxious. The carbon-bubble movement is also putting pressure on endowments, foundations and pension funds to divest fossil-fuel equity holdings. Yet is the carbon-based investment risk real or is it part of a cry for action on climate change? Look closely and financial-market realities deflate the carbon-bubble theory.

For a bubble to exist, companies would need to be overvalued in the market. In fact, since 2008 global integrated oil and gas companies (IOCs) have traded at an average 30% discount to their

<https://www.wsj.com/articles/nancy-meyer-and-lysle-brinker-the-myth-of-the-carbon-investment-bubble-1421017467?ns=prod/accounts-wsj>

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intrinsic value, based on well-accepted financial analysis using cash flows and asset sales. Even following the recent sharp fall in oil prices, IOC companies continue to trade at a discount. This is not evidence of overconfidence or the “irrational exuberance” associated with well-known stock market, tech and real-estate bubbles.

The carbon-bubble theory also misstates how fossil-fuel reserves are valued and how they contribute to the market capitalization of a company. The intrinsic value of an oil and gas company is based primarily on its proven reserves—those reserves currently producing plus those with a high probability of being developed in the near-to-medium term. The value of fossil-fuel reserves is based on the strict definition promulgated by the U.S. Securities and Exchange Commission.

Our recent report “Deflating the ‘Carbon Bubble’ ” finds that these proven reserves on average account for only 24% of the resource base by volume, but account for 81% of the resource base value that drives a company’s total valuation. Investors pay attention to and put their money on those proven reserves.

Carbon-bubble theorists use a much broader and hazier definition of reserves. They also include “probable” and “possible” resources with uncertain potential for development and commercialization much further into the future. By using this broad and chronologically vague definition, they sound an alarm around a “carbon risk” associated with not-well-defined resources that are not near term and that barely play a role in hydrocarbon-company valuations.

Carbon-bubble analysis also leaves out the timing of returns. Returns from investments in proven reserves are gained and delivered to shareholders within 10-15 years for most IOCs. Demand for oil and gas is unlikely to plummet in such a short time.

Demand is expected to rise, driven by the growing energy needs of emerging-market countries. Even under the International Energy Agency’s scenario aimed at reducing carbon emissions, energy demand is expected to grow by 12% over the next 15 years, with fossil fuels meeting more than two thirds of demand in 2030. What the value of reserves not yet developed or even discovered will be in 2050 is highly uncertain—but so is the worth that today’s high-value tech stock shares will have in 2050.

The current period of low prices is due to the rapid buildup of supply and a slowing world economy—not to carbon-related demand destruction stimulated by stringent caps on CO<sub>2</sub>

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emissions or a rapid penetration of clean energy technologies. So a scenario that envisions a swift decarbonization of the economy that leaves most commercial hydrocarbon assets "stranded" seems highly unrealistic.

A transition to a lower carbon economy will require increased investment in renewable energy and energy efficiency over a long period. The International Energy Agency forecasts that of the nearly \$40 trillion in energy investments needed to supply the world to 2035, more than 50% will be needed for fossil-fuel investments. Divestment also runs counter to the Obama administration's climate-change policy, which aims to promote more natural gas in electricity generation.

Shaping future energy and environmental policies and the energy system for decades ahead requires informed, fact-based discussion. That is also a requirement for responsible investing by endowments, pension funds and other long-term investors. Anticipating bubbles has become an important concern, but it is just as important not to base decisions on bubbles that don't exist.

*Ms. Meyer is associate director of the energy climate strategy dialogue, and Mr. Brinker is director of oil company equity research at IHS, a research and consulting firm.*

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